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**Council of (in)Justice: Crime, Status, Punishment and the Decision-Makers in the
1730s Cape Justice System**

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ABSTRACT

Considerable attention has been paid to the social history at the Cape during the reign of the VOC and although many historians have made use of the criminal records of the Council of Justice, there are very few works that concentrate on these documents in any form of entirety.

This dissertation provides a quantitative analysis of various fields drawn directly from the Cape's criminal records of the 1730s, from which a database was created. This investigation highlights hypotheses of unequal treatment, separates out various groups according to their social status and investigates the differences in crimes and punishment methods over this period. It outlines correlational trends between status and crime as well as status and punishment and based on these findings sets out to investigate possibilities for why these trends arise.

The dissertation examines the role players in the criminal procedure, most notably the Independent Fiscals, charged with overseeing all criminal investigations at the Cape, by observing extrinsic and intrinsic motivations that played roles in the decisions these men made. It then goes on to investigate punishment methods, the role of punishment and the implementation of different punishments based on certain crimes. This section of the dissertation entertains foreign ideals, notably European influences and the comparison of other VOC outposts, especially Batavia. The dissertation also provides case studies of two slave uprisings towards the end of the decade to solidify some of the arguments made throughout its investigation. It then concludes with suggestions for future research endeavours.

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Please Note: The **1730s Criminal Database** is contained on a Disk on the inside cover of the dissertation.

Chapter 1

Introduction

On Thursday 5 January, 1730, Jan De La Fontaine, accompanied by the members of council, including Adriaan van Kervel, Johannes Thobias Rhenius, Nicolaas Heyning, Hendrik Swellengrebel, Christoffel Brand, Jacobus Moller and Ryk Tulbagh as well as the three *burgerraaden* (burgher councilors), Johannes Blankenburgh, Jan de With and Johannes Cruywagen, sat down to the first meeting of the Council of Justice for the decade. This would be the first of many cases presented to the council in the period 1730-9 and it seems fitting that the case they were hearing on that day was of the slave Moses van Batavia. He was accused of assaulting and murdering a fellow slave, Alexander, and was being recommended for the death penalty by the official that presented his case. This introductory sitting of the council was indicative of what would be a decade dotted with both periods of calm and turmoil in the realm of crime and punishment at the Cape.

For the most part criminal records from the period of VOC (*Vereenigde Oost-Indische Compagnie* or Dutch East India Company) rule at the Cape have been used to gain understanding of the social and cultural values that marked both individuals and groups in the colony. Cape VOC historiography in general has paid much attention to the notion of slave identity and the role of contact between settlers and the indigenous people of the Cape, the Khoi and San. Key examples of such writing come from Ross¹, Armstrong², Worden³ and Shell⁴ who generated authoritative works on slavery at the Cape, especially in and around the 1980s and 1990s concentrating primarily on the master-slave relationship and the plight of the slave. Well known works on contact between settlers and the Cape's indigenous population, notably a 'newer'

¹ See Ross, R. *Cape Of Torments: Slavery and Resistance in South Africa* (London, 1983).

² See Armstrong, J. 'The slaves, 1652-1795' in Elphick, R. and Giliomee, H. (eds.), *The shaping of South African Society* (Cape Town, 1979), pp. 75-115.

³ See, for example, Worden, N. *Slavery in Dutch South Africa* (Cambridge, 1985) or, a much later contribution with a different style and translations of original criminal records, Worden, N. & Groeneweld, G. *Trials of Slavery* (Van Riebeeck Society, Cape Town, 2005).

⁴ See Shell, R. *Children of Bondage: A Social History of the Slave Society at the Cape of Good Hope, 1652-1838* (Johannesburg, 1994).

(though, of course, not exclusively newer, it had been raised before) theme in Cape VOC historiography include those by Newton-King⁵, Penn⁶ and Elphick⁷, who uncovered vast areas of information in this field.

More recently progress has been made in uncovering issues such as gender roles, identity formation and its maintenance as well as a greater appreciation of the Cape's underclasses. A result of this was bringing groups who had previously received little attention in Cape VOC historiography into the greater understanding of the historian, groups such as soldiers and sailors, artisans, convicts and exiles – people who, as Worden puts it, 'fell between the cracks of the categories that historians had previously focused on'.⁸

The Council of Justice criminal records invariably aided these works in a number of ways. Many works have tended to follow the micronarrative form, relying on specific events and providing rich detail of both individuals and groups. However, most works have tended to focus primarily on these specifics, creating what Worden terms 'a kind of "single category" kind of history'.⁹ They center on the actions of individuals, or of certain groups, and therefore have the tendency of creating a narrow or contained vision of that individual or group's role in society or the 'story' that one can draw from the records, emphasizing specific events. At times this works very well. Nigel Penn's work on the 'characters' of the eighteenth century, for example, is a perfect testament to the efficacy of these narratives, since they suited what he was trying to do, namely highlight these individuals as unique.¹⁰

Some works focus on specific groups in society, such as Alexander's investigation into the effect of crime within the Chinese community at the Cape.¹¹ Worden and Penn have recently highlighted the plight of soldiers and sailors at the Cape, notably around the middle of the

⁵ See Newton-King, S. *Masters and Servants on the Cape Eastern Frontier, 1760-1803* (Cambridge, 1999).

⁶ See Penn, N. *The Forgotten Frontier: Colonist and Khoisan on the Cape's Northern Frontier in the 18th Century* (Cape Town, 2005).

⁷ See Elphick, R. *Kraal and Castle Khoikhoi and the Founding of White South Africa* (New Haven, 1977).

⁸ Worden, N. 'Introduction' in Worden, N (ed.), *Contingent Lives: Social Identity and Material Culture in the VOC World* (University of Cape Town, 2007), p. x.

⁹ Ibid, p. x.

¹⁰ Penn, N. *Rogues, Rebels and Runaways: Eighteenth Century Cape Characters* (Cape Town, 1999).

¹¹ Alexander, A. 'Crime and the Chinese Community in VOC Cape Town' in *Historical Approaches* 2 (2003), pp. 1-15.

eighteenth century.¹² Some works have been particularly successful at extrapolating vital information about people and their roles in society through close investigations of certain crimes. Newton-King has been enterprising in this way through her investigation of sodomy trials at the Cape and her piecing together of social interactions from these.¹³

On the opposite end of this historiographical technique, one finds works such as Heese's, which veer away from the specific and offer a broad and primarily quantitative perspective.¹⁴ His work is a compilation of court cases in the period, with a large time-frame spanning most of the VOC's occupation of the Cape. This technique does well to highlight broader and long-range trends but, unlike works in the micronarrative or explanatory techniques, does little to explain why it is one sees such trends or how they impacted society and, importantly, focuses only on specific records from the period. Therefore these trends serve more as indicators, which beg for further investigation.

It is with this in mind that the marriage of these and other techniques is called for, yet there is very little work in Cape VOC historiography that does that. That is, to outline trends, quantitatively, over a broad period, whilst analyzing, qualitatively, why it is these trends arose, what peculiarities they show, the impact of decisions and actions over time and the nature of personal action and its influence on society. Importantly, the need is apparent to bring into form work that highlights issues across numerous groups and individuals, as opposed to the impact on specific persons or groups, given that the colony itself was so diversely peopled. This also helps to highlight the different impacts across groups within the same society as one is able to directly contrast and compare them in the same work.

¹² See Worden, N. 'Sailors ashore: seafarer experience and identity in mid-18th century Cape Town' and Penn, N. 'Great Escapes: Deserting soldiers during Noodt's Cape Governorship, 1727-1729' in Worden, N. (ed) *Contingent Lives: Social Identity and Material Culture in the VOC World* (University of Cape Town, 2007), pp. 589-601; pp. 559-588.

¹³ A good, fairly recent example of such a work is Newton-King, S. 'Sodomy, race and respectability in Stellenbosch and Drakenstein, 1689-1762: The story of a family, loosely defined' in Worden, N (ed) *Contingent Lives: Social Identity and Material Culture in the VOC World* (University of Cape Town, 2007), pp. 305-341. See also Newton-King, S. 'For the love of Adam: two sodomy trials at the Cape of Good Hope', in *Kronos: Journal of Cape History* 28 (2002), pp. 21-42.

¹⁴ Heese, H.F. *Reg en Onreg: Kaapse Regspraak in die Agtiende Eeu* (Bellville, 1994).

Works such as these just mentioned do exist for other areas of the world. Spierenburg's influential work on crime and punishment in 17th and 18th century Amsterdam and McVay's analysis of VOC Batavia and the policies in use there are good examples of works that have managed to marry techniques well, overcoming some of the wants of either form.¹⁵ Both of these works have been particularly influential on this dissertation. Importantly too, they highlight yet another crucial aspect that has not received enough attention in Cape VOC historiography, namely the nature of crime and punishment in the colony. To some extent the period of VOC punishment has almost been overlooked with an a priori adoption of it as rudimentary and merely a precursor to the punishment developments that occurred in the 19th century under British rule and with the advent of prison systems. It is evident, though, that the legal frameworks and punishment techniques in place at the Cape in the eighteenth century were anything but rudimentary, being far more complex than some texts may lead one to believe.¹⁶

These then are the key ingredients that this dissertation entertains. It makes use of both quantitative and qualitative techniques to uncover information on the often overlooked topic of the role of crime and punishment and investigates the means in which they were carried out.

The period of the 1730s serves as a good platform in which to do this. The pitfalls of investigating an earlier period, where the colony was in a formative state, or a later one, near the collapse of Company control, where the system was in disarray, are avoided by examining this period of seeming stability in the colony (at least as far as judicial and administrative functions go). It was also the first decade in which criminal and civil documentation were recorded separately, indicating the growth of the colony, where separate administration made for a more organized set up as the volume of recordings increased, as well as highlighting the importance of the criminal proceeding itself. Importantly too, the period of the 1730s provides a decade in

¹⁵ Spierenburg, P. *The Spectacle of Suffering – Executions and the Evolution of Repression: From Preindustrial Metropolis to the European Experience* (Cambridge, 1984). Also McVay, P. *"I am the Devil's own": Crime, Class, and Identity in the Seventeenth Century Dutch East Indies* (PhD Thesis, Illinois at Urbana-Champaign, 1995).

¹⁶ See Van Zyl Smit, D. *Prison labour in South Africa* (Cape Town, 1996), as well as Van Wyk, M. *Die Ontwikkeling van die Gevangeniswese in die Kaapkolonie vanaf 1806 tot en met Unifikasie 1910* (University of South Africa [UNISA] PhD Thesis, 1964), both of whom outline a rudimentary image of punishment prior to British occupation. Davenport sums this view up by stating that legalities were not uniform, were open to discretion, were absent to a large extent of systematic case records and rallied behind the idea of aggravation of sentences in order to diminish the frequency of crimes. Davenport, T.R.H. 'The Consolidation of a new society: The Cape Colony', in Wilson, M. & Thompson, L. (eds), *A History of South Africa to 1870* (Cape Town, 1985). p. 297.

which three fiscals, the primary charges of criminal procedure, held office at the Cape. It allows for an interesting investigation into the individual sway produced by the different temperaments of each man and under the circumstances each had to work.

The information presented in this dissertation is drawn primarily from the database created from the criminal records of the Council of Justice for the period 1730-9. It starts out with an overview of the empirical data collected from this database. This information is represented in table form, highlighting key aspects drawn from the records, including the crimes for which the accused were brought before the council, the social status of the accused as well as the punishments they received. Initially these categories are presented in their own tables, tallying numbers across all the records and divided only by year. These frequency tables present the various subcategories of each of the main categories of crime, status and punishment, illustrating the diversity of each category. The chapter then provides an analysis of these frequency tables and highlights particular observations.

The categories are then dealt with together, looking at both crimes and punishments with status as the static category, in order to show any variations between the different status groups, which will become a major theme throughout the dissertation. It is here that, for the first time, observations veer away from the general trends that are noted in the first half of the opening chapter and move towards being able to make specific hypotheses regarding the treatment of individuals and groups based on status.

The dissertation then considers the role of one of the key administrative positions in the world of criminality at the Cape, namely that of the fiscal. The impact of three men filling this position is investigated for the decade. Adriaen van Kervel, Daniel van den Henghel and Johannes Needer all held the office of the 'Independent Fiscal' in the period 1730-9, with Van Kervel and Van den Henghel ascending to the role of governor at the Cape in the same period.

The dissertation highlights the possible motivations of these men, endeavouring to make sense of the decisions they made in their personal capacities as fiscals. Their motivations are divided into extrinsic and intrinsic categories, the former being those influences coming from outside of the

fiscal's person. Chief among these were the applicable laws of the time – themselves an intertwined concept of law in the Netherlands, Company law applicable in Batavia and her outposts as well as the implementation of laws formed according to local circumstance. Following law, the role of religion and the impact of circumstantial motivations are investigated. Religion permeated many boundaries of VOC life and the implications of its influence on the administering of punishments and the classification of crimes is considered. The particular influence of circumstances arising in the colony that demanded specific action from the justice system are investigated as yet another extrinsic motivation.

Intrinsic motivations are defined in this work as the internal or personal influences carried by the fiscals. These could be anything from personal preference or a desire for prestige or promotion to things such as moral sets based on religious or personal beliefs as well as the idea of the creation and maintenance of social distance between those that maintained the law and those that were affected by it. These intrinsic motivations are at times set in juxtaposing – as well as, at times, concurrent – ideals to the external motivations at play in the decision-making process though they rely much more on conjecture than do their counterparts. Both forms are however recognized as having particular influence on the meting out of justice.

Following on from the analyses made in the early stages of the dissertation, the focus then turns specifically to investigating the role of punishment. The dissertation helps place the Cape's punishment system into the broader scheme of punishment systems as a whole, investigating key role players in the production of punishment methods from which many of the Cape's own punishments were gleaned.

An important element of the dissertation is the investigation of theories surrounding the reasons for enlisting punishments of a certain nature. In particular, the idea of punishment as example is investigated, the role of exemplarity was widely believed at the time as the primary function for enlisting severe punishments and for the execution of punishment in the public eye. Retribution and rehabilitation are also examined as possible reasoning for punishment as carried out at the time.

Following this the dissertation investigates the emerging punishment methods in major European states at the time, especially those punishments that were carried across the oceans and used to effect at the Cape. The dissertation compares and contrasts capital punishment methods, taking care to note the desired effect different punishments were meant to carry, in both nation states as well as at the Cape. Murder statistics are investigated to show how capital punishments were brought into effect against different groups, highlighting particular trends that were hinted at in earlier investigation of the types of punishments used at the Cape in the 1730s.

To further analyse the trend of differential treatment the crime of assault is highlighted, noting the ways in which different punishments were used at various points in time and against different groups, specifically where there were differences in capital punishments being used against certain groups whilst others were more likely to receive corporal punishments. The particular differences between punishments are then entrenched by investigating the various corporal punishment techniques used at the Cape and abroad and highlighting them against their capital counterparts. This section highlights one of the primary themes of the dissertation of differential treatment and the adaptability of punishment to suit the needs of the punishers.

The importance of the latter years of the decade is clear from the disquieting figures presented for the period. To consolidate some of the ideas noted throughout the dissertation, attention is then paid to two groups of slaves, using records from the late 1730s. At this point the dissertation lends from the micronarrative approach in that it focuses on certain groups and over fairly short periods though the primary focus is not so much to create a story of the two groups but more to recognize what I have termed the 'fiscal's voice'. Of course the particular details of the two uprisings are of importance but the way that the fiscals (as the cases are dealt with whilst different fiscals are at the helm) deal with these details and the way in which they manage the case are made vital.

An investigation is made into the way the fiscals assign blame, using various methods, leading away from straightforward punishments based on the nature of crimes committed by the individuals within a group as well as the role of complicity. This section also helps to tie together some of the key themes of the dissertation such as the applicability of status relating to both

offended and offender, the aim of maintaining Company interests, the notion of punishment through exemplarity, the role of religion in exacerbating punishment and the consequences of personal action of the fiscals in effecting their authority.

The nature of both uprisings is made clear and the particular circumstance in the colony are highlighted by investigating firstly a more long-term endeavour of drosting made by a group of slaves living in the Hanglip area and under the leadership of Leander. This group is investigated by Daniel van den Henghel in 1737, shortly before he took up the mantle of governor and his particular style of investigation is made apparent. Thereafter a shortlived uprising in 1738 is investigated and here Johannes Needer's style of investigation and interpretation is highlighted, providing noteworthy contrasts and comparisons. The inclusion of this section allows one to identify, through specific instances, some of the key trends identified throughout the dissertation.

Chapter 2

Analysing the Council of Justice Criminal Records: 1730-9

Introduction

This chapter investigates the criminal records of the Cape's Council of Justice, providing a quantitative perspective and analysis thereof. The chapter presents information in two specific sections. It is first necessary, however, to outline how the information was sorted to make up the database that accompanies this dissertation.

The court records are divided into two primary sources of information, namely the rolls and minutes of criminal cases and the separate volumes of extra documentation gathered over the course of investigation. The former is a collection of abridged information containing the key aspects of all cases that came before the council, including those where no final judgement could be made. The minutes outline the nature of the case, provide basic details of the accused such as their names and positions in the colony as well as the final sentence the council imposed on the accused. In cases where there is no written *eijsch* from the fiscal, the minutes also provide an account of the oral *eijsch* he delivers to the council, in which he recommends a sentence based on his expertise as well as the nature of the crime.

The extra documents (and *processtukken*) contained in the separate volumes usually include the fiscal's written *eijsch*, wherein he outlines the details of each case at length, noting the accused, the victims of crime as well as the roles they played in the crime at hand. Accompanying the *eijsch* one usually finds witness testaments, sworn accounts of the happenings and, at times, interrogation reports, all meticulously detailed and categorized.

These sources together contribute a wealth of information that can all be used in a number of ways. For the purpose of the types of analysis used in this chapter, key elements were selected

and provided the basis for the creation of a database of over 500 individuals that appeared before the council in the 1730s.

The information included in this database contains the names of the accused; their status (where they fitted into the social rankings at the Cape); the crimes they were being investigated for and charged with; the details of the victims of the said crime (usually a name and status, where these were given); the recommended punishment as laid out by the fiscal in his *eijsch*; the actual punishment as brought forward by the council; symbolic punishments and punishments performed on the accused after their death; any possible reasons for mitigation as well as the source information, including the volume in the criminal records as well as the page on which the information was obtained and the date that the council met. A typical entry in the database therefore looks like this:

Name:	Anthonij van Ternaten
Status:	Slave
Crime:	Housebreaking, Theft
Victim Details:	Jacob van der Mist, burger (stole from his house in Table Valley)
Rec. Punishment (Fiscal):	Hanging (<i>met der koorde aen de galg gestraft te warden, dat er de dood navolgt</i>), body to be displayed at gallows
Actual Punishment (Court):	As above
Post/Symbolic Punishment:	Body displayed at gallows
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	19 (116-118), 341 (383-393); [Th 12 Sept] ¹⁷

In order to create some statistical analysis and relevant insight from this information, three of the more important pieces of information, namely the status of the accused, the crimes they were accused of and the punishments they received were extracted and tallied to produce the first section of material that will be investigated in this chapter. Using these aspects allowed for the creation of three frequency tables, being the individual frequencies of each of the aforementioned categories. The tables are divided into each year of the decade and account for the number of times each of the subcategories occurred in the database.

¹⁷ Cape Archives (CA), Council of Justice (CJ) 19, pp. 116-8; CA, CJ 341, pp. 383-93.

This section in the chapter explains these subcategories and highlights the important information one is able to extract from this initial method of data analysis. These categories are broad in their nature and therefore provide an initial surface account of investigation but nonetheless offer interesting overviews of the period and are crucial in creating an understanding not only of the information that follows in this chapter but in the chapters that follow as well, with one chapter devoted entirely to the further investigation of punishment at the Cape.

Following the section on frequency table analysis, correlation tables are presented. These move away from simple tallying of these three categories as is seen in the frequency section and look instead at how, using status as the static category, numbers of individual crimes and punishments were attributed. They provide further insight and allow for much more specific analysis and comparison across the status subcategories. One is able to note differences, for instance, between the treatment of free blacks and burghers, indicating a difference in status. The two tables presented there, namely of status-crime and status-punishment correlations are therefore concerned more with individual tallies as opposed to overall tallies and percentages, as in the frequency tables.

1730s Frequency Tables – The Examination of Crime, Status and Punishment:

The tables are divided by year, allowing one to see the total amount of occurrences for each subcategory and compare these with other years in the period. At the end of each subcategory is a total, spanning the decade. One can therefore pick up whether a single count for a year is a large amount when noted against the totals. Each subcategory, for each year, is also represented in percentage form. This allows one to note how big a part each category played for the council in any given year as well as provide a gauge of fluctuations and inconsistencies over time.

CRIME FREQUENCY TABLE

CRIME	1730		1731		1732		1733		1734		1735		1736		1737		1738		1739		TOTAL	
	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%
Absc/Drost/Vagbnd	12	20	11	39	25	32	27	36	5	23	16	25	11	17	32	28	28	17	2	4	169	23
Armed rebellion	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6	5	12	7	1	2	19	3
Assault	2	3	6	21	9	11	10	14	4	18	9	14	8	13	12	10	12	7	7	13	79	11
Aufugie	0	0	0	0	8	10	0	0	0	0	17	27	0	0	7	6	29	17	2	4	63	9
Brking Comp. Reg.	1	2	1	4	1	1	1	1	1	5	0	0	1	2	3	3	3	2	1	2	13	2
Conspiracy/Rotting	0	0	0	0	0	0	0	0	0	0	0	0	11	17	2	2	10	6	0	0	23	3
Insubordination	1	2	1	4	2	3	0	0	1	5	1	2	1	2	0	0	3	2	7	13	17	2
Military Crime	1	2	0	0	0	0	4	5	0	0	2	3	1	2	0	0	1	1	2	4	11	2
Murder/Homcd/Mnslghtr	15	25	1	4	8	10	2	3	3	14	3	5	3	5	9	8	21	12	10	19	75	10
Public Disturbance	0	0	0	0	8	10	6	8	2	9	1	2	11	17	10	9	0	0	0	0	38	5
Rape	0	0	0	0	1	1	0	0	0	0	1	2	0	0	0	0	1	1	0	0	3	0
Smuggling/Illegal Trade	1	2	0	0	0	0	0	0	0	0	1	2	2	3	3	3	2	1	1	2	10	1
Sodomy	0	0	2	7	2	3	1	1	1	5	2	3	3	5	2	2	0	0	4	8	17	2
Spolie	12	20	3	11	4	5	3	4	0	0	0	0	1	2	5	4	14	8	0	0	42	6
Suicide	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	2	2	0
Theft/Robbery/Burglary	14	24	3	11	10	13	18	24	5	23	10	16	11	17	24	21	31	18	12	23	138	19
Other/Non-Crime	0	0	0	0	1	1	2	3	0	0	0	0	0	0	1	1	1	1	2	4	7	1
TOTALS	59	100	28	100	79	100	74	100	22	100	63	100	64	100	116	100	169	100	52	100	726	100

*Crime*¹⁸

Although most of the subcategories in these tables are fairly straightforward, it is useful to define them and some need more detailed explanations than others, especially where interpretation or grouping has occurred.

With regards to absconding, *drosting* and vagabonding, the crime almost always concerned soldiers and sailors or slaves. Leaving their assigned duties, the accused were brought before the council most likely for having *drosted* on the fringes of society, where theft and at times more serious crimes such as murder were performed. Often these acts may simply have been a case of a soldier or sailor being in a drunken stupor for a period of days or weeks after landing at the Cape. In any event, this subcategory is broad and included a large number of offenders and, as can be seen in the table, it has the largest count of offences for the period as a whole, making up around a quarter of the total noted by the council. It occurred relatively consistently throughout the period and although it is difficult to tell simply from this table, it is likely that the societal makeup of the colony was directly responsible for its large tally. Together with the subcategories of assault, *aufugie*, ‘murder, homicide and manslaughter’ as well as ‘theft, robbery and burglary’ these five subcategories account for over 500 of the total crimes in the table, which is over 70% of the crimes noted in the decade. These five crimes can therefore be labeled as the ‘mainstream’ crimes of the period. It is important to keep in mind that they often went hand in hand with one another and therefore their counts are bolstered.

Armed rebellions, as they are understood here, were usually uprisings involving slaves who ransacked farms and caused unrest in the colony. They are noteworthy primarily because they are recorded as occurring only in the latter half of the decade, a period where, as will be seen in later chapters, the colony was in a period of unrest at many levels, with a change in fiscal, governmental turmoil and a general period of unrest within the colony.

¹⁸ The figures presented in the crime frequency table are drawn from CA, CJ 12-23 and CA, CJ 334-344 [VI] as compiled in the criminal record database.

Assault is a straightforward category, although the court often differentiated between the gravity of the assault (for instance if a weapon was used) or at times noted that the act was carried out with specific intent (such as a murderous intent). An interesting point on assault arises when it concerned slave owners. The slaves who suffered assaults at the hands of their masters often died, though due to their societal positions, these were not considered to be murders but rather assaults that led to ‘accidental’ deaths. Close to 80 counts of assault were investigated by the court, amounting to around 10% of total crimes. Assault should be viewed as a more serious mainstream crime in the decade (surpassed in gravity of mainstream crimes only by the subcategory of ‘murder, homicide and manslaughter’).

Aufugie is a difficult crime to define. It would appear that the word *aufugie* no longer exists in Dutch and it is not explained directly in the council records either. For the most part it seems to be tied in with runaways and escapees and concerns those incidents where the accused were *drosting* with weapons, although there are times when weapons are mentioned along with the act of *drosting* where *aufugie* was not brought against the accused. For this reasons its exact implications are difficult to monitor. Nonetheless, with more than 60 counts in the 1730s, it too features strongly, tied in with the high number of *drosters* at the time.

Breaking company regulations, a subcategory that included a number of crimes such as breaking curfew, the illegal chopping of firewood and how one treated one’s slaves is among the crimes recorded less frequently in the period. Another of these was conspiracy or *rotting*, a crime involving the gathering of slaves with the intention of plotting against the colony. Quite often the records point out that although the intentions of such individuals were not necessarily known, the suspected act of their plotting was enough to have them brought before the council. With just over 20 counts for the period it can be adjudged, as far as court records show, as an infrequent occurrence, with most of the cases coming from two years in particular, 1736 and 1738.

Insubordination features here predominantly where slaves acted against their owners. There were cases where military insubordination occurred though these are covered under military crimes. Other crimes that fall under military crime are instances such as being drunk whilst on duty,

performing illegal activities at one's post and so forth. Both these subcategories have low frequencies in the period.

The subcategory of 'murder, homicide and manslaughter' is perhaps the most important of the mainstream crimes of the period. Accounting for around 10% of total crimes, its incidence was relatively high. The highest incidence (percentage-wise) was in 1730, accounting for 25% of the total crimes for that year. In 1738 we see a total of 21 counts of murder for the year, an amount bolstered directly by the incident of slave unrest investigated in chapter 5. With over 70 individual counts for the decade its prominence in the records is important.

Public disturbance includes destruction of property, disturbing the peace or generally making a spectacle of one's self in the public eye. Although not as prominent a feature as some of the mainstream crimes, it occurred frequently throughout the period with only a few years having low or no counts.

Rape, along with suicide, was the least frequent type of crime listed in the council documents. Recorded rarely by the council in the 1730s, the inclusion of these crimes in the table merely highlights the variety of crime at the Cape in the period.

Smuggling and illegal trade appears here and there as thorns in the council's side. Usually it concerned a case of trading illegal amounts of alcohol, or trading with persons with whom certain trades were not allowed (notably on ships) and also includes cases where 'fencing' of stolen goods occurred. These types of crimes often incurred large monetary fines, though they appear in the period fairly infrequently.

Sodomy is another crime that was recorded fairly infrequently, with under 20 counts for the period. It involved same-sex intercourse and cases where intercourse was carried out with an animal. There were only cases in this period where male intercourse was noted. These incidents usually fetched harsh penalties, as will be seen in the investigation of punishments.

Spolie, much like *aufugie*, is yet another crime that is not defined directly in the criminal records, nor does it exist in modern Dutch. It appears to be tied in with destruction of property and theft and likely refers to spoiling, however, not every case of property destruction or theft is linked with *spolie* and so it too remains somewhat obscure. Nonetheless, with around 40 counts in the period it still forms a generous portion of the crimes noted.

The last of the mainstream crimes, namely ‘theft, housebreaking and burglary’ accounts for the second largest portion of total crimes in the period. Accounting for around 20% of total crimes it stands out as perhaps the most inclusive crime of the period, spanning more statuses than the aforementioned subcategory of absconding. Theft here included household burglary, theft from persons as well as sheep and cattle theft, a crime tied in closely with the *droster* gangs.

The subcategory ‘other and non-crime’ includes a few charges that were perhaps not performed with criminal intent or which came about accidentally, for instance in 1733 where a *knecht* appeared before the court for accidentally shooting a burger. These instances form a small portion of the crimes in the period.

Besides investigating the amounts of times individual crimes occurred the table also allows one to examine which years were quiet and which kept the council very busy. The years 1731 and 1734, for example, each carrying counts in the 20s, had relatively low caseloads for the decade and are the only two years where the count of crimes dropped under 50. 1737 and 1738, on the other hand, were by far the busiest years for the council, with 1737 being the first time in which over 100 crimes were recorded and 1738 surpassing even that count with close to 170 crimes being noted. As mentioned these years are important regarding the arguments of this dissertation and they exhibit importance even at this early stage of investigation.

STATUS FREQUENCY TABLE																							
STATUS	1730		1731		1732		1733		1734		1735		1736		1737		1738		1739		TOTAL		
	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	
Bandieten	0	0	1	4	0	0	2	3	0	0	3	7	3	7	0	0	1	1	1	2	11	2	
Burgers	1	3	2	7	1	2	4	6	2	10	3	7	1	2	3	4	1	1	4	9	22	4	
Caffers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	5	0	0	0	0	4	1	
Chinese	0	0	0	0	1	2	4	6	0	0	2	5	0	0	0	0	0	0	0	0	7	1	
Company Employees	0	0	1	4	2	4	2	3	2	10	1	2	0	0	7	9	3	3	5	12	23	4	
Free Blacks	0	0	1	4	0	0	0	0	0	0	0	0	1	2	1	1	0	0	0	0	3	1	
Knegten	0	0	0	0	0	0	1	2	0	0	1	2	0	0	1	1	3	3	0	0	6	1	
Hottentots	0	0	0	0	1	2	0	0	0	0	3	7	4	9	0	0	3	3	0	0	11	2	
Landbouwers	0	0	0	0	1	2	0	0	1	5	0	0	0	0	1	1	4	4	2	5	9	2	
Military (High)	1	3	1	4	0	0	4	6	2	10	3	7	1	2	2	3	2	2	2	5	18	3	
Military (Other)	6	17	3	11	3	6	3	5	1	5	2	5	7	16	6	8	4	4	1	2	36	7	
Slaves	16	46	4	15	22	43	14	22	3	14	17	39	12	27	22	28	65	59	12	28	187	36	
Soldaatē/Mattoosen	11	31	14	52	20	39	30	47	10	48	9	20	16	36	31	40	24	22	16	37	181	35	
TOTALS	35	100	27	100	51	100	64	100	21	100	44	100	45	100	78	100	110	100	43	100	518	100	

*Status*¹⁹

One's attention regarding the status frequency table is immediately drawn to the overwhelming amount of slaves, *soldaten* and *mattroosen* (soldiers and sailors) in the records. These two subcategories alone account for over 70% of the total records, with a total of 365 of the 519 individuals appearing before the council from these two groups alone. If one were to group Company employees²⁰, both military subcategories²¹ and soldiers and sailors together, the result would be an amount of 259 individuals, meaning that at least 50% of the accused individuals were employed by the Company. This is not surprising as the bulk of persons in the colony were either company employees or slaves, with Elphick and Giliomee putting the figure for private slaves at around 4000 for the year 1730²² and given that the majority of company employees were soldiers or sailors, their numbers would have been relatively high too.²³

Van Duin and Ross put the total population figures for the period at anywhere between 8000 and 11000 inhabitants.²⁴ They also usefully outline figures for Company employees (between 870 and 1120), Company slaves (between 600 and 730, including convicts), free persons (between

¹⁹ The figures presented in the status frequency table are drawn from CA, CJ 12-23 and CA, CJ 334-344 [VI] as compiled in the criminal record database.

²⁰ The subcategory 'company employees' comprises non-military company positions. The sample includes the professions of *metzelaar* (mason), *molenaar* (miller), *timmerman* (carpenter), *onderbaas* (foreman), *slootemaker* (smith), *houtkapper* (woodcutter), company diver, baker, *steenhouwer* (stone cutter), *botteliersmaat* and *vooroppercuijper* (cooper)

²¹ Military (high) includes corporals, commanders, *onderstuurman* (second mate), *opperstuurman* (first mate) *derdemeester* and sergeants. Military (other) includes those that were skilled in particular crafts or who categorically fell out of the other military subcategories – they were Tamboer (Drummer), Quatermaster, Bootsman (boatswain), Jongen (under 17 years old), Bosschieter (able seaman), Adelborst (cadet, midshipman), Constapelsmaat (Constable's mate), Zeijlmaker (sail maker), opperzeijlmaker (upper sail maker), Schieman (boatswain's mate), Koksmaat (cook's assistant), Vlaggeman (Signalman), Trompetter (trumpeter), derdewaak (Third-watchman), Constapel (constable), Hooplopers (apprentice seaman), and kok (cook).

²² Giliomee, H & Elphick, R. 'The structure of European domination at the Cape, 1652-1820' in Elphick, R & Giliomee, H. *The Shaping of South African Society, 1652-1820* (Cape Town, 1986), p. 360 for population figures of the colony from 1670-1820. The number of burger slaves stands in stark contrast with say the small group of free blacks at only 200 for the year 1730.

²³ See Worden, N, Van Heyningen, E & Bickford-Smith, V. *Cape Town: The Making of a City* (Claremont, 1998), pp. 49-52 for figures of the 1731 census and a breakdown of how society was made up at the time.

²⁴ Van Duin, P. & Ross, R. *The Economy of the Cape Colony in the Eighteenth Century [Intercontinenta 7]* (Leiden, 1987), p. 126. These figures, however, exclude the families of VOC officials, their private slaves and the Khoisan. What they do indicate is the total population figures including free persons, Company personnel, slaves and *knechten*.

around 2800 and 3900), *knechten* (between 80 and 150) and slaves (between around 4000 and 5800) for the period of the 1730s²⁵, providing useful total approximations of individual population subcategories that should be kept in mind throughout the investigations of this dissertation.

Having the highest frequency of individuals is one reason why slaves, soldiers and sailors may have featured so often in the criminal records but there are other possibilities too. One is the fact that these groups were the most marginalised at the Cape and often found themselves in the most dire of situations. Company wages for soldiers and sailors were meager and the position of a slave was already a precarious one. At the time soldiers received around 9 guilders a month, an amount that was lessened by the deductions made on the Company's behalf and at the end of the day they had barely enough money to cover even the barest necessity of food. Added to this was the fact that even after 5 years of service they would only just be able to cover the debts they had fallen into prior to their employment.²⁶ With this in mind, crime may often have come by way of necessity for these marginalized groups, either by an actual, physical necessity such as the need for food or money, or through less tangible aspirations such as the desire for freedom or as a form of rebelling against the oppression of Company life.

There is also the possibility that law was structured in such a way that these groups were particularly targeted by the justice system. The nature of the crimes listed in the crime table makes this apparent in many cases – only these groups were enslaved (either literally or by the shackles of company employ) and could be deemed as having broken the law for something as trivial as not reporting to their posts. Another sign that emphasizes the hypothesis of law being structured in such a way that it victimized the lowest ranks is that no company official of a high rank appeared before the council throughout the 1730s, despite there being a sense that many of them were indeed breaking the law.²⁷

²⁵ Ibid, pp. 112-4.

²⁶ Mentzel, O. F. 'Enlistment of Troops for the East Indies' in *Life at the Cape in the Mid-Eighteenth Century* (Cape Town, 1919) pp.21-27.

²⁷ Penn, N. *Rogues, Rebels and Runaways: Eighteenth-Century Cape Characters* (Cape Town, 1999). See p. 107, where it is noted, by Mentzel's account, that "it was customary for those in authority at the Cape to extract as many perquisites and advantages... as possible... [even though they were illegal]"

The other status subcategories, although amounting to far smaller counts, are still important in showing the diversity of criminal classes at the Cape, a unique admixture that paid homage to the cosmopolitan nature of the colony as a whole. Outside of company employees, burghers and *landbouwers* make up the bulk of the records (the reason for differentiation between them is not clear, other than that *landbouwers* were primarily farmers whereas burghers were likely to have held an array of positions in the colony). Together they make up around 6% of cases.

Smaller groups such as *bandieten* (convicts), *caffers* (the town ‘police’ and helpers of the executioner), Chinese, Free Blacks (emancipated slaves), *knegten* (normally soldiers employed as caretakers on farms) and *Hottentots* (Khoisan) make up between one and two percent each, with some of these groups appearing infrequently and sporadically in the period.

A technical note on the table is that often the court delineated multiple statuses for offenders, for example soldiers who were also *knegten* and so forth. For the purpose of calculation of the tables one or the other has been chosen, usually dependent on how it tied in to the nature of the crime. The database still shows multiple statuses though.

1737 and 1738 once again stand out as years where high counts occurred, with 1737 tallying close to 80 counts and 1738 being the only year to breach the 100 mark, with a total of 110 counts. The extremely high count of slaves for the year 1738 is also notable, with 65 of them appearing in that year (more than 30% of the total slave count for the decade). These numbers alone hint that this year will be of particular importance in this study.

Although the issue of correlation has not been dealt with directly (it follows the frequency tables) one should already recognize how some crimes and statuses mirror each other in terms of total tallies such as that of smuggling to Chinese and absconding to soldiers and sailors. Although they are not exclusive to one another their similar frequencies offer some insight to their relations to one another.

PUNISHMENT FREQUENCY TABLE

PUNISHMENT	1730		1731		1732		1733		1734		1735		1736		1737		1738		1739		TOTAL	
	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%
Beheading	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	1	1	1	4	0.4
Branding	8	12	2	4	5	5	4	4	4	11	8	11	1	1	6	5	4	2	3	4	45	4.8
Company Labour	19	29	9	19	27	26	32	28	5	14	22	29	21	27	26	21	17	8	7	9	185	19.9
Demotion	0	0	0	0	0	0	0	0	0	0	2	3	0	0	0	0	0	0	1	1	3	0.3
Deportation/Banishment	3	5	6	13	1	1	8	7	4	11	1	1	4	5	0	0	4	2	4	5	35	3.8
"Donker Gat"	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	3	2	0.2
Drowned at Sea	0	0	0	0	1	1	1	1	1	3	2	3	1	1	2	2	0	0	1	1	9	1.0
Expulsion from Company	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	1	0.1
Fines	4	6	6	13	16	15	23	20	4	11	4	5	9	12	10	8	15	7	5	6	96	10.3
Firing Squad	0	0	0	0	0	0	0	0	0	0	2	3	0	0	0	0	0	0	1	1	3	0.3
Flogging	17	26	16	34	30	29	41	36	13	37	25	33	30	39	54	44	58	27	16	21	300	32.3
Gauntlet Run	2	3	3	6	0	0	1	1	0	0	1	1	1	1	0	0	1	0	2	3	11	1.2
Hanging	3	5	0	0	4	4	0	0	0	0	3	4	1	1	6	5	16	8	8	10	41	4.4
Impalement	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5	2	1	1	6	0.6
Labour for Owner	0	0	1	2	0	0	1	1	0	0	0	0	1	1	0	0	8	4	1	1	12	1.3
Ledebraken (1) - w coup de grace	3	5	1	2	0	0	0	0	0	0	0	0	0	0	0	0	7	3	1	1	12	1.3
Ledebraken (2) - w/o coup de grace	0	0	0	0	5	5	0	0	0	0	1	1	3	4	3	2	4	2	1	1	17	1.8
Mutilation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5	2	1	1	6	0.6
Privilege Removal	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	1	0.1
Public Display (of corpses)	6	9	1	2	9	9	0	0	0	0	4	5	4	5	9	7	34	16	11	14	78	8.4
Removal of Intestines	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	2	0	0	4	0.4
Strangulation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	3	0	0	0	0	4	0.4
Symbolic	0	0	2	4	7	7	1	1	4	11	0	0	1	1	0	0	9	4	1	1	25	2.7
Torture (Interrogation)	1	2	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	0	7	9	10	1.1
Torture (Punishment Rituals)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	2	9	4	2	3	13	1.4
TOTALS	66	100	47	100	105	100	113	100	35	100	75	100	77	100	124	100	204	97	77	100	923	100.0

*Punishment*²⁸

Punishment is dealt with exclusively in Chapter 4, allowing for a more thorough analysis of this important aspect of the justice system of the time, although it should be useful here to provide some explanation of the types of punishment available and how they feature in the table. It should also be kept in mind that the punishments investigated here are the actual punishments handed down by the council, as opposed to the recommended punishments suggested by the fiscal. A reading of the latter would provide a far harsher account of punishments at the time. The immediate effect of the table is to demonstrate the variety of punishments available to the council, with 25 subcategories in this sample.

Flogging held an important position of recourse for the court. With approximately a third of all punishments falling under this subcategory it forms as the primary mode of corporal punishment for the decade. Floggings were usually combined with other punishments such as labour on company works (the second largest subcategory of punishment, amounting to over 180 counts, approximately 20% of total punishments) and fines (for company employees this often came in the form of a forfeiture of pay for a certain period – itself accounting for around 10% of total punishments).

Various other corporal and chastising punishments featured in the records. Among these were branding; demotion; deportation and banishment from the colony; periods in the '*donker gat*' (a holding cell in the castle); expulsion from the Company and of Company positions; running the gauntlet (military punishment where offenders would run through members of the garrison whilst being beaten); labouring for one's owner (slaves); various forms of mutilation (such as cutting of the cheek or Achilles tendon- though the category covers mutilations that formed part of death sentences too- see Chapter 4); removal of privileges; symbolic punishments (such as wearing a noose round one's neck or having a sword swung over one's head – here too the category includes symbolic punishments that accompanied death sentences such as having a weapon used

²⁸ The figures presented in the punishment frequency table are drawn from CA, CJ 12-23 and CA, CJ 334-344 [VI] as compiled in the criminal record database.

in a murder being displayed) and torture as part of interrogation. These all play their part in making up the remaining punishments in the table.

Capital punishments were varied too and came to make up large percentages in the period. Chief among these were hangings and the two forms of *ledebraken* (accounting for around 7% of total punishments). Other capital punishments included drowning the offender at sea; firing squads, impalements (usually offenders would be impaled alive on a stake and left to die); the removal of intestines and strangulation. As part of capital sentencing, torture as part of the punishment ritual (such as having one's flesh torn with hot iron tongs) also featured in the period. The majority of death sentences were accompanied by public display of the corpses at the gallows, this punishment making up more than 8% of total punishments. Capital sentences are investigated in more depth in Chapter 4.

The latter half of the decade captures our attention once more, not only for the high numbers of punishments meted out (this is of course a direct effect of the high number of offenders) but also due to the especially harsh forms of sentencing that enter the records in this period. For the first time one begins to see punishments such as mutilations, strangulation, removal of intestines and high frequencies of torture as part of the punishment ritual. These appear from 1737 onwards but feature most strongly in the year 1738. Public display, hangings and *ledebraken* would all have had significantly smaller counts were it not for this year (public display's count for this year alone makes up half the punishment's total and hangings and *ledebraken* in 1738 make up near 40% of each of their totals).

Harsher punishments in retaliation to the types of crimes would be one way to view this peculiarity, especially when one notes the higher incidence of slave unrest and dissidence – it may have made sense to adjust the harshness of punishment to create a greater disincentive towards crime, perhaps aimed at particular groups. Another possibility lies with the arrival of the new fiscal. The introduction of new, noticeably harsher punishments came only once he gained control of the recommended punishments – impalements, mutilation and torture as punishment

ritual did not appear prior to his inception. Chapters 3 and 4 both look at these issues in more detail.

1730s Correlation Tables: Status and its relation to Crime and Punishment:

This section investigates status as a static category and shows tallies for individual crimes and punishments that each status subcategory collected in the decade. The tables provide insight into the charges certain groups were being accused by the council for as well as which punishments they most often received. The simplest way to deal with these tables is to take each status group individually, note the high values for both crimes and punishments and thereafter to interpret any significant scores between them, if any.

STATUS/CRIME CORRELATION																	
CRIME	Absc/Dr/	Armd Rob	Assault	Aufugie	Comp Rob	Consp/R	Insub.	Mltry Crim	Murder	Publ Dist	Rape	Smug/I	Sodom	Spolie	Suicide	Thft/Rb/B	Other
STATUS																	
Bandieten	0	0	1	0	0	0	1	0	0	2	0	0	4	0	0	5	0
Burgers	0	0	10	0	0	0	1	0	5	0	0	5	1	0	0	0	1
Caffers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	0
Chinese	0	0	2	0	0	0	0	0	0	0	0	4	0	0	0	4	0
Company Employees	9	0	3	0	0	0	1	0	4	0	0	2	0	2	0	4	1
Free Blacks	0	0	0	0	3	0	0	0	0	0	0	0	0	0	0	0	0
Knegten	0	0	3	0	0	0	0	0	2	0	0	0	0	0	0	1	1
Hottentots	0	0	0	0	0	0	0	0	9	0	0	0	2	0	0	9	0
Landbouwers	0	0	7	0	0	0	0	0	2	0	0	0	0	0	0	0	1
Military (High)	0	1	7	1	3	0	1	5	1	2	0	1	0	1	0	2	1
Military (Other)	18	0	4	0	1	0	2	1	1	3	0	1	1	2	0	2	0
Slaves	24	18	28	56	4	24	9	0	49	0	2	0	7	31	1	94	0
Soldaat/Matrosen	116	0	25	0	3	0	0	6	4	5	1	1	4	3	0	22	1

*Status-Crime Correlations*²⁹

The table shows that *bandieten* were most likely to come before the council on charges of sodomy and theft. Given that around 75% of the colony was male³⁰, that convicts were separated from normal society and that the chance for sexual interaction with the opposite sex was slim for this group, the featuring of sodomy comes as no surprise. Thefts arose throughout the status groups and this features as a normal trend.

Burgers were accused of 10 cases of assault and 5 each for murder and smuggling and illegal trade. When looked at in conjunction with landbouwers, their tally of 7 for assault and 2 for murders means that as a group these persons were very likely to be brought before the council on charges of assault (17 counts) and murder (7 counts), the two making up a large majority of the groups' total offences. This underpins the violent nature of the position they held, especially as has been noted in relation to slave owners. Smuggling and illegal trade charges can be accounted for given that these persons were more likely to have the means and access to goods such as wine to illegally trade.

All *caffers* were charged with theft, in a spate towards the end of the decade where looting of a shipwreck was prevalent – this is dealt with in Chapter 4. Chinese were most likely to appear for smuggling and illegal trade and thefts, highlighting their role as fencers of stolen goods, perhaps a stereotyping, but nonetheless evident in the records.

Company employees are the first group to highlight the series of absconders, attributable to the nature of their employ, with assaults, murders and thefts also appearing for this group. Free Blacks presented primarily with the crime of breaking Company regulations, indicating a peaceful existence except where they crossed paths with company law. *Knegten*, on the other hand, appear for assaults and murders, as was the case with the burgers they worked for, a statistic that was likely due to their roles of having to maintain order on the farms of their

²⁹ The figures presented in the status-crime correlation table are drawn from CA, CJ 12-23 and CA, CJ 334-344 [VI] as compiled in the criminal record database.

³⁰ Worden, Van Heyningen & Bickford Smith, *Cape Town*, p. 50. This percentage is taken from a census for the town itself, though it is likely that a similar percentage stood throughout the colony, if not higher.

employers. The hottentot (Khoisan) group, marginalised in their existence, present with high figures for murders and thefts.

The last four groups, namely higher military officials, *soldaaten* and *mattroosen*, other military officials and slaves present with by far the most varied account of crimes for the period, owing to their high numbers but also showing the variety of their trespassing opportunities. There are however certain crimes that stand out.

The subcategory military (high) is linked primarily with assaults, military crimes and breaking company regulations. Why they present with a higher number of assaults than any other crime is not directly discernable though it might indicate an inclination towards squabbles, possibly due to their positions, or as an abuse of these positions. Breaking military regulations would naturally be linked to their roles as military personnel, drunkenness on duty or simple neglect thereof being key among the reasons.

Military (other) is synonymous with absconding, a high ratio of the group being guilty of this, the first indication of the crime's prevalence in the colony. Of course, only military personnel and slaves could be accountable for this crime as they were obligated to be on duty. The records also reveal a scattering of assaults, public disturbances and thefts for the period.

Slaves show arguably the most varied crime frequency for all groups, with thefts, *aufugie*, conspiracy, *spolie* and absconding being common occurrences. Importantly, they also feature as the highest number of individuals accused of murders, with 49 counts (an alarming figure for the period) and assaults, a large tally of 24. They seem to have lived under the harshest conditions and present with violent, desperate and flagrant criminal recourse. Featuring as the primary count (for all but 1) of armed rebellion, their plight in the colony seems a marked one.

Soldiers and sailors similarly feature with a host of criminal charges, though their primary recourse was one of flight, with the category of 'absconding, drosting and vagabonding' featuring as their predominant crime. Assaults and thefts feature strongly too, with a scattering of

murders, sodomy, military crimes and public disturbances making up their varied criminal acts in the period.

The table illustrates the strong correlation of how crime arose specifically around one's status – each group presents with marked differences, the lower the status the more dire the situation, the more varied the crimes and the more particular groups feature with crimes of more violent natures. The agitations of each social status leading to criminal exploits of certain kinds become more apparent in this way.

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*Status-Punishment Correlations*³¹

As is to be expected, given the high frequency of floggings for the period, *bandieten* received floggings as their primary form of punishment, attributable to the frequency of thefts as a primary crime. Along with branding for their recidivist actions³², these two punishments make up the bulk of counts for the period. The two drownings at sea are attributable to the punishment's nature of being leveled against sodomy offenders (Chapter 4 deals with this).

Punishments for burgers are unexpectedly lenient for the period. We have noted the high incidence of violent crimes they were charged with yet the nature of punishments does not seem to correlate. The majority of burgers merely had fines imposed on them (with one hanging and one drowning at sea). This is strong evidence that the status of the accused, rather than the nature of the crime alone, determined the nature of punishment (although there is also the fact that different regulations were imposed on slave owners, depending on how the court adjudicated the actual crime). Interestingly, when one looks at the category of *landbouwers*, who presumably shared the same rights as burgers, there is a slight difference despite the similarity of crimes. No burger was sentenced to the corporal punishment of flogging, yet, in the same period, four counts of this punishment were levied against *landbouwers*. It may very well have been the case that the court adjudged these groups differently, this may however, be simply coincidental. The majority of punishments, mirroring that of burgers, still tended to be fines.

Caffers were treated harshly for their crimes of theft, all receiving death penalties, with hangings and strangulations forming the majority of punishment methods. This was likely in lieu of the exemplary force the court wished to impose.³³ Most Chinese offenders were sentenced to company labour and floggings, matching their crimes of theft and illegal trade.

The category of Company employees offers the first view of a more varied base of punishments. Mainstream punishments of floggings, company labour and fines are common. Brandings also

³¹ The figures presented in the status-punishment correlation table are drawn from CA, CJ 12-23 and CA, CJ 334-344 [VI] as compiled in the criminal record database.

³² See chapter 4, p. 71-3.

³³ See chapter 4, p. 54-5.

feature relatively strongly in this group. For the first time we are exposed to a group receiving torture as part of the interrogation procedure, with 3 counts for the period. Two death sentences were imposed with a scattering of deportations, likely owing to the capital crimes committed by the group.

Free blacks received a somewhat expected one count for each of flogging, fines and company labour – owing to their crimes of breaking company regulations. It is interesting to think of the one free black that was forced to enter into service of the company, after having been free this would have been a taxing sentence.

The Khoisan group received mainly death sentences of hangings and *ledebraken*, owing to their crimes of murder. *Knegten* received more mainstream corporal punishments, with one *knegt* coming before a firing squad, a rare punishment of the period.

High military personnel received a range of punishments, notably fines and demotions, owing to the nature of their crimes. They were also sentenced to a number of gauntlet runs, their positions in the military favouring these. The category of military (other) were also primarily given corporal and chastising punishments, with floggings featuring strongly alongside Company labour and fines. One capital punishment by firing squad also featured.

Slaves exhibit high figures for both corporal and capital punishments. Floggings, company labour and brandings all feature strongly for this group. Forms of capital punishments varied highly under this status category. Hangings and *ledebraken* featured commonly whilst less common capital punishments for the period also presented themselves. These included beheadings, impalements, mutilations and intestine removal, the likes of which were leveled almost solely on this group – the nature of status and the punishments inflicted is made clear in these matters in particular (only the most flagrant of discretions earned these punishments in any other groups, if at all). This highlights once again the unequal nature of punishments for the decade. A large portion of capital sentences accompanied public display at the gallows in this group, close to 70 in total. For the first time, too, the torturous punishments of the decade appear, solely for this group. Slaves also made up a large count of symbolic punishments. For the most

part, what becomes evident in this table, is that slaves felt the full force of capital sentencing for the period, making up, by a long way, the bulk of all of these for the period.

Soldiers and sailors were sentenced primarily to corporal punishments, faring far better than slaves regarding capital sentencing. The majority of punishments for this group centred around floggings, company labour and fines, this group making up a large percentage of these types of punishments overall. Deportations and running the gauntlet also featured to some extent.

Conclusion

This chapter has shown, firstly, the nature and variety of subcategories of crime, status and punishment for the decade. Through investigation of the frequency of these categories, high numbers of occurrences have evidenced across the board. With an initial understanding of exactly what counts appeared before the council for these categories it was crucial to discern how they were spread out based on a particular static category, namely status. Leveling crimes and punishments against this static category it was shown that numerous trends arose regarding the nature of crimes for certain groups, especially those of slaves and *soldaten* and *mattroosen*. The level of inequality was made clear when investigating the role of punishments. To some extent the nature of crimes complemented the punishments meted out by the council, though, inconsistencies and large differentials between certain status groups meant that their crimes and punishments did not always correlate. These inequalities will be investigated in the chapters to follow.

Chapter 3

The Independent Fiscals: Juridical power in the hands of the few

Introduction

“Social forces are not extra-human; they consist of the interdependent actions of millions of individuals. A minority among these individuals, on the other hand, occupy strategic positions, so that their influence is greater.”³⁴

Up until this point we have entertained the notion of *what* was happening in the courts at the time. We now shift our focus to the central theme of this chapter of *why* this was happening. There are a myriad of ways to entertain this question, but perhaps the most crucial aspect would be to undertake an investigation of the actual role players, following the links from the accused themselves, to the final outcome under the eyes of the members of the Council of Justice. There is, however, one all important cog in this system that stands out. There was always one man that was key to this process, one that acted precisely as that link between the accused and his punishers, in many ways being the exact force that brought about the drive to punish, in that it was he that outlined, researched and made provisions on which the final outcome of any case would often be decided.

This man, at the Cape and elsewhere in VOC territories was the Independent Fiscal (though by the time we are investigating here his role at the Cape was unique, in that he was the only remaining fiscal in VOC territories). He was directly responsible to the Heren XVII and therefore ‘independent’, meaning he was not subject to the local governor and councils.³⁵ The Independent Fiscals were charged with rooting out corruption in the various VOC territories, particularly regarding the abuses by local company servants in the world of illegal trade, an area

³⁴ Spierenburg, P. *The Spectacle of Suffering – Executions and the Evolution of Repression: From Preindustrial Metropolis to the European Experience* (Cambridge, 1984), p. 110.

³⁵ Gaastra, F. S. ‘The Independent Fiscaals of the VOC, 1689-1719; in *Itinerario 9*, vol.2 (1985), p. 93.

that, prior to the 1687 newly established independency of the fiscal's position, was an issue less likely to have been undertaken with any degree of diligence.

Gaastra does however point out that despite this independent role, the fight against corruption was still handled rather differently depending on both the willingness, as well as the ability of the fiscal as an individual, to pursue these allegations – it was, after all, a personal choice he had to make, one that affected not only the role of the law, but also his own agenda in the make-up of the place in which he was bound to serve and, ultimately, live. In this lay the exact juxtaposition and inevitable collapse of the function of the Independent Fiscal in Asia after 1711 (with the last of the lot leaving in 1719), reiterating the previous point of the Cape as a peculiarity in the VOC world, as the function continued here after that.³⁶

The Fiscal was expected to handle all matters of transgressions of the law, including acting against those of seemingly equal or even higher status than himself. As Gaastra points out, the ideal candidate for this position would be 'an outsider', since he had to prosecute everyone that fell under his jurisdiction. This person would need to carry out his duties without being compromised by his relationships with the people of the town, or by his own past – in short, someone who would administer justice blindly.³⁷ The question is, did such a person exist?

The Fiscals, both at the Cape and elsewhere, were not impervious to the outside forces of the world, nor were they men without personal ambition, motivations and opinions. To understand the ways in which the Fiscal acted, one needs to analyse these pressures exerted on him. From this a clearer understanding of the outcomes of his decisions become evident, highlighting the role of interpretation, exploitation, personalisation and employment of what I have termed here the 'Extrinsic' and 'Intrinsic' motivations of holding the office of the Fiscal. These motivations manifested themselves in very real ways and it is the purpose of this chapter to highlight both what these motivations were, as well as how they would have influenced decision making.

In brief, the Fiscals acted as individuals and different Fiscals handled different situations with greater or lesser degrees of success. Gaastra outlines a host of irregularities in the carrying out of

³⁶ Ibid, pp. 93-99.

³⁷ Ibid, p. 96.

their duties in Asia, as well as the difficulties they encountered in trying to break through the wall that was the rigidity of the VOC socio-political system, notably the issue of promotion.³⁸

The Cape had three different Fiscals in the period 1730-9, each with his own personal role to play in the governing of the justice system of the time. The first of these three, from the beginning of the period until midway through 1731, was Adriaan van Kervel, a man with a notable history in the world of VOC Cape politics. From his position as assistant to the secretariat of the Council of Policy in 1708 he eventually worked his way through the ranks, succeeding van Beaumont as fiscal in 1725. He then went on to serve as *secunde* and was eventually appointed governor in 1737, though he only held that office for a short period, dying less than three weeks into his term.³⁹

Van Kervel's successor (as both Fiscal in 1731⁴⁰ and as acting governor in 1737), Daniel van den Henghel, also served a rather illustrious career at the Cape.⁴¹ It appears Van den Henghel had prior experience as fiscal, his name appears as such in Colombo as early as 1727.⁴² His struggle to obtain – and further maintain – his position as governor after Van Kervel's untimely death is one that gained him considerable attention at the time.⁴³ It was a battle he inevitably lost before returning to his position as fiscal in 1739 until 1741, with his eventual repatriation to the Netherlands in 1742.⁴⁴

³⁸ Ibid, pp. 92-102.

³⁹ De Kock, J.W. & Kruger, D.W. *Dictionary of South African Biography Vol. III* (Cape Town & Johannesburg, 1972), p. 788.

⁴⁰ Sentrum, TANAP. *Resolutions of the Council of Policy of the Cape of Good Hope 1651-1795* (CD-ROM, 2008), C87, pp. 64-71.

⁴¹ It is interesting to note that Gaastra points out rather emphatically that after holding the office of fiscal, the career of these men rarely featured a climb in the hierarchy, with only two men from a list of around thirty that held the fiscal's office in Asia ever reaching the rank of governor. He further notes that this position was in fact the very downfall of many a man who fell into its trap. One hypothesis he puts forward is that a study in law may not have been a favourable starting point in the commercially oriented Company. What is interesting here is that in only a short space in time, and in 2 out of 3 men, the position of fiscal *did* lend itself favourably to promotion. Whether this is indicative of the socio-political make-up of the Cape or is more simply an anomaly is not entirely clear. Gaastra, 'The Independent Fiscaals', pp. 98, 107.

⁴² Sentrum, TANAP. *Cape Transcripts- TEPC 1673-1834* (CD-ROM, 2008), *Bandietenrollen*, CJ 2562/251-2, p. 101.

⁴³ Penn, N. Rogues, *Rebels and Runaways: Eighteenth century Characters* (Cape Town, 1999), pp. 109-10.

⁴⁴ Sentrum, TANAP. *Resolutions*, C81-90, p.192.

The third and final fiscal of the period, Johannes Needer, although not featuring as prominently in politics as the abovementioned men, also followed an interesting career path. He arrived at the Cape in 1721, though not as a company servant, but rather as a free burgher. He took up a position with the company as Adjunct-Fiscal (Fiscal's assistant) in 1727, a full 6 years after arriving at the Cape. So, it would appear that he had a hand in the justice system throughout the 1730s period, albeit in the background until his interim position as fiscal from 1737-9, in Van den Henghel's stead.⁴⁵ It is this very period in which he holds office that some interesting circumstances arise and provides for some noteworthy outcomes, as will be shown later.

From just this initial investigation of who the fiscals were and what path their careers took one can already see the influence of some intrinsic values and motivations in terms of personal ambition for promotion and officeholding.

One other person that needs to be mentioned here is the *landdrost*, Pieter Lourensz, who held office throughout the period of the 1730s, as the fiscal's assistant in the rural hinterland. His role was close to, if not as important as, the fiscal's as it was he who administered justice outside the urban reach of his superiors. His opinions are also of importance as he gave *eijnschen* directly to the court. His particular motivations for his recommendations also make for interesting reading and provide insight into the influences of thought in the period.

Extrinsic Motivations of the Fiscal

When speaking of 'extrinsic motivations' what is meant is anything that one might consider to be an external influence on the decision-making process undertaken by the fiscal, such as the laws he was bound to uphold, the religious, social and political climates surrounding him as well as particular circumstance that may tend to force his hand in one way or another. The obverse of this, the 'intrinsic motivations', are any influences that the fiscal carries internally, such as personal preference, a personal set of morals, formed religiously or otherwise, perceptions of self and others and the relation between them as well as personal ambition and character traits.

⁴⁵ Sentrum, TANAP. *Resolutions*, C104, p.43

The extrinsic motivations are most likely those attributes that the fiscal himself had no (or perhaps minimal) power over in their formative states, but it should be made clear, and importantly so, that every decision made by the fiscal came down to a choice. The fiscal always had the final say regarding which motivations he made use of in any situation. If he chose to uphold one law over another, to ignore religion, to enlist personal preference or adhere to the advice of his political peers, there was always a selection process. The individuality of every fiscal as more than just a spearhead in a formed system but also as one of a man actively engaging in choice created a situation where the persona of each one became ultimately as important as the structures into which that person fitted.

The Law

Dealing with law at the Cape in the mid-eighteenth century (and certainly in other periods as well) is a complicated endeavour. Cape law relied on so many different influences that under close scrutiny one may find it difficult at times to pin down what form of absolution could ever be applied in meting out a sentence. During the whole Company period, a single, comprehensive set of instructions was not available for application by the Council of Justice and, in light of this, Raath maintains that Cape law, especially in the early period of company rule, remained elementary in its nature.⁴⁶ This is a rather harsh understanding of the character of Cape law, though it certainly highlights the difficulties encountered by scholars in dealing with the intricacy of the system.

It is perhaps Kerry Ward who most aptly describes the use of law when she states that ‘...The legal orbits of the company empire did not operate [necessarily systematically]...They were more like tangled webs’.⁴⁷ It is these ‘tangled webs’ of legal orbits that one needs to unravel to

⁴⁶ Raath, A. ‘Federal Jurisprudence in the Public Sphere of the Early Cape Settlement, 1652-1708’ in *Publius*, 30, 2 (2000), pp.100-1.

⁴⁷ Ward, K. ‘Defining and Defiling the Criminal Body at the Cape of Good Hope: Punishing the Crime of Suicide under Dutch East India Company Rule, circa 1652-1795’ in Pierce, S. & Rao, A. *Discipline and the Other Body*:

shed some light on the options available to the fiscal. Through them one is partly able to understand the nature (at least in terms of legal boundaries and obligations) of his decision-making process.

The first of the major legal orbits that Ward mentions is the legal relationship between the Company and the United Provinces of the Netherlands. In issuing the VOC's charter the Netherlands devolved certain rights within the Company to establish its own legal system, though it is usually pointed out that this system found its basis in the laws governing the Netherlands itself, namely Roman-Dutch law. For the most part, though, the initial legal system based itself on naval discipline and defined its laws within these militaristic frameworks (the Company was, after all, a naval power and the rigidity of the system as a whole was likely easier to maintain within the boundaries of such a legal system). The statutes and resolutions issued under this form of sovereignty were to take precedence over the legal codes of the Provinces.⁴⁸

Heese places the emphasis of the VOC's insistence on the use of Roman-Dutch law squarely on the make-up of the seats of power within the VOC and their mimicry of the same such setups in the United Provinces, where Holland and Zeeland held the majority of power and where Roman law, as it was accepted at Leiden and therefore Holland, took precedence. Of course, where local circumstance did not match these forms of legal systems, for instance, in the case of slavery (slavery was not practiced in the Netherlands), local and circumstantial legal codes made their way to the fore from an early stage.⁴⁹

Heese's view of legality at the Cape rests firmly on the belief that Roman-Dutch law held its place as the basis of justice, and he justifies this view by pointing towards the ready availability of scholarly material such as the texts of van Damhouder, Groenewegen, Huber and Van Leeuwen and on their continual appearance in the *Sententien* series.⁵⁰ Ward, however, highlights the danger in assuming Roman-Dutch law as an *a priori* exertion of the rule of law. She feels that the mistake arises when trying to understand the inception of law in the colonies as an extension of a coherent legal system. In reality, she argues, local legal systems emerged in

Correction, Corporeality, Colonialism (Durham, 2006), p. 46.

⁴⁸ Ibid, p.45.

⁴⁹ Heese, H. F. *Reg en Onreg: Kaapse Regspraak in die Agtiende Eeu* (Bellville, 1994), pp. 1-3.

⁵⁰ Ibid, p. 3.

tandem with an evolutionary form of European jurisprudence.⁵¹ One can nevertheless identify a strong influence of Roman-Dutch law as the basis of juridical decision-making. The fiscals all made extensive use of texts outlining and defining laws in the Roman-Dutch tradition. In the 1730s sections from Simon Van Leeuwen's *Rooms-Hollandsch Regt* and Van Damhouder's *Practyk Crimineel* were cited on numerous occasions by all three fiscals of the period. Van Kervel was partial to Van Leeuwen and was likely to note Van Damhouder's agreements. Van den Henghel would often draw different suggestions from both and backed up his arguments quite often with more obscure texts, whilst Needer also made good use of both texts and kept mostly to these while every now and then highlighting a knowledge of other texts or quite simply the role of opinion.⁵²

Tied in with the law of the Fatherland was taught law, that being the law taught to the fiscals themselves. Here again the individuality of the fiscal becomes important. Van den Henghel, for instance, shows, through his *eijsschen*, that he had a vast knowledge of legal material and in his sentencing he does not shy away from mentioning specific paragraphs and articles by an array of authors as justification for his actions.⁵³ He is also the one fiscal that made use of more obscure texts, such as Claudius de Bruyn's *Proces Crimineel*, which, interestingly, seems to be a personal text of his, as he adds '*bij mij*' in his explanation, suggesting it is either different to what others may have (as in the copy, as he is referring to a page number) or that it is his own or simply the one that he makes use of.⁵⁴ He also expresses his knowledge of Latin texts, mentioning for example, specific chapters and pages from the text *Corpsovius*.⁵⁵ Someone like Needer on the other hand, did not have the same legal background, since he was not a trained lawyer, but rather a freeburgher enlisted to help with legal proceedings. This is not to say that he did not acquire a large portion of legal knowledge whilst carrying out his duties. He, in fact, appears to have had a wide knowledge of legal texts and applied his knowledge thereof thoroughly. In dealing with a case of desertion he also highlights his familiarity with Latin texts and quotes from the *Corpus*

⁵¹ Ward, K. *The Bounds of Bondage: Forced Migration from Batavia to the Cape of Good Hope during the Dutch east India Company era, c. 1652-1795* (PhD Thesis, University of Michigan, 2001), pp. 31-2.

⁵² For examples of each fiscal's particular period of office see CA, CJ 334 for Van Kervel; CA, CJ 340 for Van den Henghel and CA, CJ 342 for Needer.

⁵³ See for example CA, CJ 341, pp. 12-13. Van den Henghel justified his recommendations specifically based on the particular crimes at hand, quoting from Van Leeuwen, Groenen (Groenewegen), Van Aller and Damhouder all at once.

⁵⁴ CA, CJ 340, sodomy case of Michiel van Emdnelen, pp. 97-112.

⁵⁵ CA, CJ 340, sodomy case of Michiel van Emdnelen, pp. 97-112.

Turis Militairis as well as *Krijgs Articul Brieff*, dealing specifically with soldiers absconding without consent.⁵⁶

Ward's second and third legal orbits regard the role of Batavia, first as the spearhead of the VOC, and secondly in her relations with the 'outer stations', as they came to be known. These orbits involve the terms of how her legalities came to act as the rule of law under VOC jurisdiction. Laws passed in Batavia were valid in these territories insofar as they were locally applicable.⁵⁷ The Statutes of Batavia, set up in 1642 by Maatsuyker in Batavia, served as a compilation of earlier *plakaaten* and of the 'laws' of van De Carpentier. Where these laws could not provide the basis for sentencing, its users were directed to seek justification once more in the laws of the United Provinces. The Statutes of Batavia came to serve as the basis of law in the outer stations, including the Cape.⁵⁸ It was the fiscal's responsibility to justify punishment based on the law, and also his choice of which law to follow.

Outside of these laws, local circumstance allowed for the issuing of new *plakaaten*, as well as the modification of those laws contained in the Statutes of Batavia. These 'local laws' constituted the last of Ward's legal orbits available at the time. Once again the onus lay with the fiscal to familiarize himself with these local laws for their application and daily use. Ward alleges that it is doubtful whether many of the high ranking officials were actually familiar with the law and the Batavian Statutes in any detail, claiming that very few had legal training and were more conversant with the Bible than with legal text (though this is itself an important issue).⁵⁹ As far as the fiscals went, they had a good grasp of the law, were legally well versed and most often justified their actions with legal texts.

Religion (and how it pertained to the law and Fiscal decision-making)

One important aspect to make note of regarding VOC territories, particularly large stations such as Batavia, is that the church played an important role in administering justice. In Batavia one found that the church acted as the first port of call in dealing with various offences. The church

⁵⁶ CA, CJ 342, desertion case of Nicolaas Wys, pp. 48-52.

⁵⁷ Ward. 'Defining the Criminal Body', pp. 45-6.

⁵⁸ Heese. *Reg en Onreg*, p. 2.

⁵⁹ Ward. 'Defining the Criminal Body', p. 46.

aimed at reform rather than blatant punishment of the kind administered by other court bodies. As McVay puts it, the criminal courts (*Raad van Justitie*) were a last resort, and as such, many defendants in the criminal courts were individuals who had already received attention from the church administration.⁶⁰ At the Cape the direct course of action was for offenders to enter the Council of Justice immediately when it came to criminal matters – the luxury of a church administered court setup did not exist, nor, one would assume, did it need to for such a small population. It is doubtful whether, had such an institution existed, it would have had much impact in any case given the nature of the lower ranking and floating majority of the Cape's population who may have inevitably been overlooked in terms of reform rather than punishment. This is critical in understanding the role of religion and idealism in administering justice. In the end, the primary effect religion was able to produce came via the will of administrators to enlist it, and in the case of the Cape that onus lay in the hands of the fiscals and the *landdrost*.

Although his work focused primarily on the early phase of Cape settlement (circa 1652-1708), Andries Raath raises some interesting arguments surrounding the formation or implementation of religious and moral law. This was a system that, at that stage, often relied on the interpretation of legal material and where religion often stood as a viable substitute where law could not fill in the gaps.

Raath's work highlights the role of religious texts and the way in which they infiltrated sections of administration beyond the church itself. In his explanation of the way in which moral and religious law stood as a framework in legal circles he explains the texts and the way that they outline the will of God and man's duty to fulfill this will. In essence, his paper shows that religious texts of the time often outlined the will of God that man be 'upright', that he live a pious life following his good conscience, and that every man was embedded with a sense of what was just and what was not, and with a knowledge in his heart of what he should do and what he should refrain from. An interesting point in this is that the major texts that he refers to are embedded with the fact that God's love was in fact conditional, and it was the onus of man to comply with His laws to receive this love.⁶¹

⁶⁰ McVay, P. *"I am the Devil's own": Crime, Class, and Identity in the Seventeenth Century Dutch East Indies* (PhD Thesis, Illinois at Urbana-Champaign, 1995), pp. 55-64. Chapters 3 and 4 are particularly useful for understanding the roles of courts and the church, particularly in Batavia.

⁶¹ Raath. 'Federal Jurisprudence', pp. 93-4.

The main religious theorist in this perspective was Henrich Bullinger, who outlined his various sentiments in works such as his *Decades* and *Housebook*, both of which came to be in use at the Cape as important religious texts for the edification and general spiritual guidance of a large portion of its people. Bullinger's works outline what Raath notes as 'Divine Law', divisible into moral law and God's commandments as well as 'Judicial Law', being the rule of law governing specific territories in Christian realms.⁶² On this Raath writes

"The authority of the sword is allowed because the magistrate has not received it in vain from the hand of God. Therefore... he does not disallow or find fault with the election of the magistrate, the use of the sword, the execution of judgement and justice, or upright and civil laws"⁶³

It is these laws that draw our attention due to the way that they openly and directly validate the power not only of the state and God's law, but also of the men who govern the justice system, and of the magistrate at the center of it all, in the case of the Cape, the fiscal.

Following Bullinger's ideals of federal theology (being the framework for biblical interpretation of the relationship between man and God, relevant here in the way that His law applied directly to the way man should act and how it was enlisted in the laws of man, or of the state itself), the works of Zacharius Ursinus, a Reformed leader, came to further strengthen these notions of religious federalism. His primary contribution, the *Schatboek* (*Treasurebook*) outlined the conditions for receiving God's blessings through true faith and obedience. His work is mentioned by title in the Dutch Church Laws of 1638 and came to be a most important text in the religious followings of the time. In essence the federal theology that came to surface at the Cape, based on these beliefs, held the Ten Commandments as a summary of moral law and the laws of nature, emphasizing the role of enlisting moral (and to some extent, Judicial) law insofar as they may be useful in regulating human conduct. With this Raath puts forward his major claim, that federal theology had a profound effect on the administration of justice at the Cape and that these sources

⁶² Ibid, pp. 88-96. Bullinger's works also outline ceremonial laws, though Raath highlights that they need not be investigated as they refer simply to ceremonies that predated the ascension of Christ and served no purpose in churches thereafter.

⁶³ Ibid, p. 96.

served as administrative weaponry in a community ‘bound’ by joint theological views. This idea of a *bound community* is important in understanding the acceptance and use of religious ideas as they were applied at the Cape.⁶⁴

One effect of religious implementations on law, in a very direct manner, was in the creation of edicts with strong religious underpinnings. As early as the Van Riebeeck administration Cape edicts outlined the implementation and protection of the Reformed religion. In 1660, for example, Cape residents were prohibited from taking persons from other religions into their homes in the event of a shipwreck. Religious and moral law came to infiltrate all levels of daily life at the Cape, from labour and education, to spiritual worship and the upholding of public morality. Edicts highlighted heavy penalties for blasphemy as well as various forms of immorality, such as adultery, fornication, prostitution and lasciviousness. The commandments were also enforced through the law – theft prohibition and the good name (and honour) of the residents, as well as education with respect to justice, virtue and honesty were all brought forward in the name of the law. Raath states, and rightly so, that theological and scriptural motivations may have played a more important role in jurisprudence than scholars usually accept.⁶⁵

Raath highlights numerous cases where the prosecution alludes directly to the transgression of ‘God’s law’ in their accounts of the actions of the accused. Religious overtones abound in the documents of the Council of Justice, from highlighting godless intentions, committed evils, radical transgressions of Christian virtue to emphasizing personal traits of the accused that fall outside of God’s favour.⁶⁶

Van Kervel, Van den Henghel and Needer all make reference to the ‘*godlose*’ (godless) actions of men, the transgressions of ‘*goddelijke en weerdelijke wetten*’ (godly – meaning the commandments – and worldly/natural laws) and the intentions of men as being incongruent with upstanding citizens and give this forthright as justification for punishment.⁶⁷ This ties in succinctly with the hypotheses Raath puts forward.

⁶⁴ Ibid, pp. 98-102.

⁶⁵ Ibid, pp. 102-5.

⁶⁶ Ibid, pp. 105-6

⁶⁷ See CA, CJ 334, 340, 342.

It is however Pieter Lourensz, the *landdrost*, who is most forthcoming regarding religious fervour and his words highlight the freedom of implementation of religious ideals (and religious texts) in the *eijsschen* he delivers to the courts. In a case of sodomy in 1736 he outlines Van Leeuwen and Van Damhouder's suggested punishment of burning the victim and follows up with a confirmation in the Bible, where Leviticus 20 v15 outlines the same.⁶⁸ In 1738, in a case where a young slave girl was raped by Fortuijn van Bengalen, Lourensz once again justifies his recommendations of the death penalty, stating that man is '*door god in de wet van mozes gegeven deuteronomy 22 v25*' (by god given the law of Moses in Deuteronomy 22 v25), calling for death in the case of rape.⁶⁹ This gives one a clear indication of how religion was able to impinge directly in the carrying out of justice in the 1730s.

Although this highlights the somewhat intrinsic aspects of the fiscal and *landdrost*'s propensities towards moral and religious aspects of law, it does identify the religious frame in which these thoughts operated at an extrinsic level. So what we see is that religion, under the guise of moral law making, directly influenced some of the most rudimentary of decision making processes in Cape law.

Circumstantial Motivations

When looking at both the types of crimes committed as well as the punishments recommended by the fiscal one sees that throughout the first half of the 1730s the situation was relatively stable and there was little variation. It is only in the latter half of the period that we see some change in these areas. Crimes became far more varied, punishments became far harsher and in general judicial patterns seem more direct whilst also being open to fluctuation.

⁶⁸ CA, CJ 340, sodomy case of Arnoldus, pp. 56-63.

⁶⁹ CA, CJ 342, rape case of Fortuijn van Bengalen, pp. 192-206.

It is at this time that there was a change of fiscal. Van den Henghel was succeeded by Needer and it seems that a different brand of justice was born almost immediately. This stark contrast makes it tempting to lay the blame directly on Needer's shoulders – one feels he had a style all of his own that only came to the fore when he was at the fiscal's helm. Despite the appeal of this hypothesis, this may, however, be too simple an explanation. It therefore becomes important to bring the context of an unstable colony into the fray – the justice system acted as a part of a whole, and in the latter stages of the 1730s this whole was in a state of disarray. The fluctuations of council decisions can be seen, at least in part, as a reflection of, and reaction to, the disjointed socio-political structure of the Cape at the time as well as the mounting pressures on colonial borders.

Although resistance to colonization appeared throughout the period, it is only in 1738, when a major crisis began brewing on the frontier zone, that any serious consternation sent the alarm bells tolling for the regime at the Cape. Growing frustrations with bartering systems and continual raids and counter-raids between both colonists and indigenous Khoi as well as the increasing competition for land and resources led to the creation of a very unstable situation, so much so that in 1739 the "Bushmen War" broke out.⁷⁰ Colonial boundaries had remained fairly static until the early stages of the eighteenth century but by the late 1730s it had expanded rather dramatically, bringing contact and conflict as inevitable outcomes.

Tied in with this period, as if mounting war was not enough of an issue for Company officials to deal with, Estienne Barbier was stoking the fires of burgher unrest. His eventual sentencing in the courts reveals just how much he had managed to aggrieve the powers that were, and it just so happened that Daniel Van den Henghel was at the forefront of bringing him to 'justice', as both fiscal and sometime-governor. In outlining his sentence Van Den Henghel, as fiscal in 1739, brought no less than 11 crimes against Barbier, including *aufugie*, violation of arrest, spurring *landbouwers* against the government, illegal removal of *plakaaten*, causing armed uprisings, libel and injurious accusations, arson, murder, plundering, partaking in uprisings and theft.

⁷⁰ Penn, N.G. 'The Frontier in the Western Cape, 1700-1740' in Parkington, J. & Hall, M. (eds) *Papers in the Prehistory of the Western Cape* (Oxford, 1987), pp. 472-6.

Barbier felt the full wrath of a disgruntled council (and a likely embarrassed one too – many of his accusations were leveled at Van den Henghel himself as well as other high ranking company officials), with their ever-vigilant fiscal spearheading the proceedings.⁷¹ Van den Henghel recommended that Barbier be bound to a cross, have his right hand chopped off, to be broken on the wheel from the bottom up, to be beheaded and to have his body quartered. Thereafter his hand, head and parts of his body were to be displayed. The council had no hesitations in following his recommendations to the letter.⁷² Besides Needer's implementations of removing intestines from live victims this is perhaps the harshest punishment a fiscal could recommend.

Aside from the unrest on the frontier, there was definite unrest in the Company's ranks as well. We have already noted Van den Henghel's jostling for power on a number of occasions. The constant reshuffling of positions must have had an effect on the efficacy of the position of the fiscal. Van den Henghel seems at times more interested in his political aspirations than anything else.⁷³ It may have been that he became complacent in his duties. That is not to say that they were neglected, but rather that he often relied on repetition and experience in dealing with criminals – not a bad thing when regulation and conformity were sorely needed at a time when the colony was about to be flung into disarray. Of course, he dealt with the same crimes for a number of years and one can see the patterns to his thinking in the judgements he formed, as well as his own evolution of which punishments fitted which crimes.⁷⁴

Needer, on the other hand, despite being on the scene for a fair amount of time, was more likely to experiment in his duties. In only a short period he introduced a number of extreme punishments, the likes of which have been investigated in the previous chapter. The point to be made here is, however, that these may have been a direct consequence of having to deal with a disorganized system in the first place – greater severity could have come from a greater desire for maintaining order and a hope that criminals would be more inclined not to disobey the laws of the colony. One role of punishment was as a form of public exemplarity. To thwart crime (so

⁷¹ CA, CJ 21, pp. 69-72; 75-8; CA, CJ 344-IV, pp. 1-299.

⁷² CA, CJ 21, pp. 69-72; 75-8; CA, CJ 344-IV, pp. 1-299.

⁷³ Penn, N. *Rogues*, pp. 109-10. Penn illustrates the interesting debacle surrounding the change of governors around the period 1737-9, with what he calls 'an ungraceful struggle' as interested parties jockeyed for power and rallied for allies.

⁷⁴ CA, CJ 13-19,21; CA, CJ 335-341,343.

it was thought) one needed to make the consequences thereof known, the more explicit the better. In this light the idea of creating order from chaos through harsher penalties makes sense. Therefore, when Needer, for example, recommends cutting the Achilles tendons of a pair of runaway slaves in 1738 (something one does not find anywhere prior to his taking office) before being sent back to their owners⁷⁵, the role of exemplarity in a volatile colonial situation becomes not so much cruel and arbitrary but rather functional and relevant (runaways were particularly dangerous in a period of unrest, let alone any other period, as will be seen later).

Intrinsic Motivations of the Fiscal

Personal Prestige and Self-promotion

A modern, mercantilistic and capitalistic understanding would have one assume financial benefit as the primary objective for any individual to hold office. This is not an unfounded view. Finance was central to the VOC world and the individuals who found themselves in positions of office were likely to have been highly perceptive to a commercial and economic atmosphere. However, it is this exact notion that should leave one cautious of following the idea of financial gain as the primary motivation for office-holding with too much zeal. The men who took on the position of fiscal were bound to already be financially successful – the gain from their (likely) current positions of *opperkoopman* (upper merchants), or near equivalents, to the position of fiscal would not have affected their company income much. What then, if not the want of money, might motivate one to hold an office of systemic importance?

In dealing with officeholding in Elizabethan and Stuart England, Fletcher highlights the important role one's reputation played at all levels of society. In a sense, one's social character was asserted through the office one held – an office of justice being particularly noteworthy, that is, if one was concerned with upholding justice, and not with the abuse of the power your seat gave you. This idea of an elevation of credit (as well as the blotting thereof, should one fall out of favour) amongst one's peers and the respect of people over whom one governed is important

⁷⁵ CA, CJ 20, pp. 86-8; CA, CJ 342, pp. 208-16.

for understanding the mindset of holding office.⁷⁶ He sums this up succinctly in one line, stating that ‘prestige not wealth was the principal reward of office’.⁷⁷

Scholarly material dealing with the Cape has revealed much the same attitude towards upholding one’s ‘good name’ and the pertinent roles of status, honour and shame and the direct impact these had in the governing of everyday occurrences.⁷⁸ The position of fiscal, in terms of company status was certainly high – the role came with independence, as seen above, and the only other offices that may have entitled a man to a similar (or slightly higher) level of respect would be that of governor or *secunde* (the governor’s second in command). By this token one can understand the following: officeholding carried with it a level of prestige, men who desired a position in office were likely to have sought this prestige, the only way to claim greater prestige was to claim a greater position of office. Climbing the ranks, or self-promotion, emphasizes yet another character trait we need to be aware of, that these men were likely to have been highly assertive, driven individuals, who allowed very little to stand in their way.

We see two of the three fiscals in the period of the 1730s manage to climb to the highest rank of all, that of governor. The fact that they were men who held a highly respected, and presumably even feared position in the past only entrenches the idea of claiming rights of personal prestige and securing passage for self promotion. It has been hinted that Needer had the additional hindrance of a ‘glass ceiling’ he inevitably hit because of his Lutheran convictions.⁷⁹ This is speculation, but nevertheless, it indicates that his not rising in ranks did not necessarily mean that he was not as driven and ambitious a character as his predecessors (his punishments, in fact, point out that he may have been even more assertive a character).

Idealism and Religious Intent

⁷⁶ Fletcher, A.J. ‘Honour, Reputation and Local Officeholding in Elizabethan and Stuart England’ in Fletcher, A. & Stevenson, J. (eds) *Order and Disorder in Early Modern England* (Cambridge, 1987), pp. 92-3.

⁷⁷ Ibid, p. 92.

⁷⁸ See for example R. Ross, *Status and Respectability in the Cape Colony, 1750-1870: A Tragedy of Manners* (Cambridge, 1999).

⁷⁹ Personal correspondence with Gerald Groeneweld, who has encountered Needer in his research undertakings of the 1730s *pachter* movements and Lutheran connections there.

Before writing all officeholders off as partaking in a hunt for social status, Fletcher remarks that

“It would be a mistake if, through preoccupation with men seeking reputation for its own sake, we were to suppose that selfish motives were always predominant in the exercise of office... idealism and deep concern for social reform [as well as]... Godliness was the core of these men’s sense of reputation”⁸⁰

It is useful to keep in mind that personal ideals (with religion quite often at the core) were prevalent in many a judicial procedure. Judgements were subjective outtakes of how one man, despite his aims of objectivity, saw the world. In this way anything that touched the Fiscal personally, such as certain crimes that raised particular irritation, gave way to personal ideals and allowed for interference of subjective whims. These men were acting on intentions of maintaining what they thought was right and just and also on what they felt was expected of them by the Company – the problem was that not all men’s ideals ran hand in hand. This becomes key when one notices the different interpretations and maintenance of justice in the period.

Daniel Van Den Henghel’s preoccupation with hospital thefts is a perfect example of this. Theft would most often fetch a punishment of flogging and would usually be coupled with a sentence of Company labour, ranging in severity based on (primarily) the nature of the crime. Apart from voicing his irritation in correspondence with the court he ensured that the force of the punishment was felt by all who may have similar intentions of theft. The added humiliation of being flogged, by the *caffers*, in the hospital itself, highlights the kind of vindictive power the fiscal was able to exert. Any time the fiscal voiced his opinion outright we get a hint of his personal ideal of wanting to uphold Company law, and in this Company ideals.⁸¹ This illustrates the idea that punishment severity could be based on personal irritation, but the reality of the matter was that few questions were raised and little opposition existed outside of the council’s ability to overturn the fiscal’s recommendations but most often this was not necessary. The fiscal was almost a power unto himself, his independence was in full view, though in the end, a man in

⁸⁰ Fletcher, ‘Honour, Reputation and Local Officeholding’, p. 104.

⁸¹ See, for example, CJ 14, pp. 6-8, the case of Jan Joosten; CJ 15 pp. 106-7, CJ 337, pp. 362-5, the case of Frans Maureguard; CJ 16, pp. 40-2, CJ 338, pp. 125-31, the case of three mattröosen and one soldaat; CJ 18, pp. 40-2, CJ 340, pp. 124-33, the case of Frans Albertsz. These highlight some of the cases in the consistent plight of hospital thefts in the period.

the public eye, who should always be pious, may very well be bound by strong religious notions of upholding justice, maintaining peace and punishing evildoers for their transgressions – all in the name of the rights entitled to him by a power not of this earth.

Aristocratization and the role of social distance

In his investigation of changes in repressive forces in the *Ancient Regime* of the Netherlands Spierenburg highlights, albeit briefly, the role that social distancing played in the processes of the court. The general stabilization of control the courts gained also added to the securing of a distinct consciousness of the court's position as an agent of repression.⁸²

In terms of social distancing he mentions the increasing tendency of aloofness between the patrician judges and the delinquents they tried. Judges were usually more harsh towards outsiders, as they were people they had no contact or ties with in the first place.⁸³ This is important at the Cape as a large proportion of the population was a 'floating' one. The obvious hypothesis would be that the fiscal and the court judges may very well have imposed harsher sentences on the 'floating' inhabitants as an example to others. We have noted previously the treatment in terms of final punishments of the soldiers and sailors at the Cape, by far the most transient group of inhabitants in the colony. The fiscal's recommended punishments would highlight an even more severe expression of the punishments they could have faced. These inhabitants may have been more inclined to break laws as their short stay would mean in due time they would be leaving the port, and leaving the ramifications of their actions behind, providing they had not been apprehended or reprimanded before then. An understanding of harsh repression for misdemeanours would have proved useful for the court's purposes.

This of course refers literally to outsiders as people from outside the territory of the Cape but there are other ways of being considered an outsider. One's gender, ethnicity, age and social ranking may have been just as detrimental if not more so to the outcome of a case as one's place of origin. One wonders whether the fiscal would have taken notice of the transgression of the

⁸² Spierenburg, P. *The Spectacle of Suffering*, p. 180.

⁸³ Ibid. p. 180.

company law of chaining one's slaves correctly and recommending the punishment of the confiscation of his slaves were the slaveowner white or European rather than a free black, as was the case in 1731 when Robert Schot of Bengalen nearly fell victim to the fiscal's whim.⁸⁴

Spierenburg emphasizes the impact of aristocratization as the idea of a patriciate with increasing feelings of superiority. In effect the social distance between the punishers and the punished increased and the former became less concerned with the fates of law-breakers and therefore more inclined towards harsher penalties. He notes that scaffold punishments were therefore imposed more easily and likely without the judges even being conscious of it. They were invariably faced with members from inferior strata, ranging from marginal vagrant groups to the lower middle class. Spierenburg states that it is only natural that severity of punishment mirrored relationships between social strata.⁸⁵ He does, however, put forward the idea that these changes are mid-term in a changing society, noting that his study shows, over a longer period, that developments in punishment reflect a trend towards the softening of physical suffering and the decline of severe punishment. In this respect tensions between social strata are the more likely effect of severity.⁸⁶

Social distancing was made even more distinct at the Cape than it was elsewhere as the laws were further complicated to cater to unfree groups (or rather against these groups). In effect social distancing was maximized when free and unfree were brought in as opposing groups on either end of the social scale. The unequal punishment of the unfree is made clear in the previous chapter, this group encountering by far the most severe punishments for the period, as well as the most varied forms of capital punishments. This is critical in the investigation of Cape attitudes as it is at that crucial point in the later period of the 1730s that one finds the greatest tension between groups, although reflections of negative attitudes are present throughout the period.

Conclusion

⁸⁴ CA, CJ 13, pp. 77-8; CA, CJ 335, pp. 343-5.

⁸⁵ Spierenburg. *The Spectacle of Suffering*, pp. 180-1

⁸⁶ Ibid, pp.181-2.

This chapter opened with the notion that there was one cog that played a vital role in the judicial process at the Cape, one man that had the power to make or break any given criminal procedure. The question that arose was how, exactly, this one person came to his decisions and what had an influence on his actions.

It has been shown that this process is indeed, borrowing the term once more from Kerry Ward, its own version of a ‘tangled web’, encompassing many factors. Extrinsic and intrinsic influences have been considered and merit has been shown for the use of both. One can see that through a process of selection the fiscal (and his *landdrost*) decided what a punishment should be and why it should be so. If the analogy of a cog is to be followed, it should entail the notion of a plurality of spokes, just as the fiscal relied on a plurality of influences.

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Chapter 4

Punishing the Rabble: Peculiarities in criminal punishment at the Cape

Introduction

Punishment for criminal charges is something that could be portrayed as a universal occurrence – it invariably occurred worldwide and over long periods of time. What cannot be thought of as universal is the scope and methods of punishment in different areas and at different points in time. Punishment has an evolutionary nature, whether over long periods, or, as one may suggest at the Cape, even over short spaces of as little as a decade – changes occurred frequently.

In chapter 2 the punishment methods used at the Cape in the 1730s were introduced. From this one gleaned a notion of variety both in the number of different punishments, as well as in the number of times each was imposed throughout different periods in the decade. The 25 punishments outlined there performed various functions, from capital and corporal effects to pecuniary and non-physical, chastising ones.

This chapter moves from looking at what punishments were in use at the time, to fitting the Cape's punishment methods into a broader scheme of punishment systems. Through investigating trends in both Europe (especially the Netherlands and its surrounding areas, as the VOC and most of its employees hailed from there) and in VOC controlled territories in the East Indies the chapter aims primarily at comparing and contrasting the Cape to these to ascertain to what extent punishment at the Cape mirrored or differed from these areas and over different times. Another aim of the chapter will be to investigate the nature of punishment itself. It will outline the reasons behind punishment and the various forms it took, in both theory (primarily abroad, in Europe) and practice (which will highlight Cape trends) as a background to why we see the types of punishments we do in the eighteenth century. It then outlines practices of punishment at the Cape for the century as a whole, to highlight noteworthy trends, and then to

examine the 1730s, looking at various cases that bring to the fore issues such as unequal punishment and the ferocity and harshness of the Cape system, considering the shift away from such trends abroad, raising the issue of the Cape as imposing more painful and torturous punishments than many of its counterparts.

The question that arises is whether the Cape inhabitants were engaging in the punishment practices encountered abroad or were there differences in the types of punishments being handed out across the oceans in European ‘homelands’? Were there perhaps totally different practices altogether in place to deal with criminal underclasses (i.e. where capital and corporal punishment fell away in place of other systems such as imprisonment)? The Cape in relation to its lands of origin and other stations under VOC control opens up all these interesting avenues for comparison.

Punishment Theory and Rhetoric

“... the purposes of punishment (are) as follows: to pay retribution upon the malefactor, to serve as a deterrent and warning to future transgressors, to eradicate evil from society, and to prevent future evil from afflicting it.”⁸⁷

It should be kept in mind that punishment had a handful of intended outcomes. It is useful to identify what these were in the period to understand the reasoning behind punishing in the first place, or at least to try to understand the purpose of punishing in certain ways. On ‘pre-enlightenment’ theories of punishment (i.e. the first half of the eighteenth century), Frank McLynn identifies three main perspectives as outlined by penal theorists of the time.⁸⁸

The first of these was that punishment, in its very nature, should have an effect of exemplarity, so that, when carried out effectively, the punishment itself served the purpose of deterrence.⁸⁹ To this end, when an English judge replied to a protesting man condemned to death for the simple

⁸⁷ Merback, M.B. *The Thief, the Cross and the Wheel: Pain and the Spectacle of Punishment in Medieval and Renaissance Europe* (London, 1999), p. 134. Merback is quoting from the text *Costumez, usaigez et stillez... ou pais d’Anjou*, written c. 1440 regarding its grasp on the rationales of criminal prosecution.

⁸⁸ McLynn, F. *Crime and Punishment in Eighteenth-century England* (London and New York, 1989), p.249.

⁸⁹ *Ibid*, p. 249.

act of stealing a horse that he was not being hanged for the act of stealing a horse, but was being hanged that no more horses should be stolen, the exemplary nature of punishment was made starkly vivid and evident in penal theory.⁹⁰

Similarly, in 1730, in his oral *eijdsch* before the Cape court, Adriaan van Kervel explained his harsh recommended punishment for the slave Schipio, who transgressed the company regulation which forbade the chopping and collecting of firewood on ‘*Wind Berg*’. His recommendation explained that it was firstly aimed at preventing further transgressions of the same nature (“*tot afschrik van andere*”⁹¹), as well as being in reaction to such a blatant disregard of what was presumably a well known restriction (“*tot straffing van diergelyke moetwillige ongehoorsaamheid*”⁹²). He enforced the will of authority explicitly through exemplarity.⁹³

Most punishments that included any public display, of which at the Cape there were many, also served exemplary roles. In May 1737 four *Caffers* were charged with theft from a recent shipwreck, a flagrant rejection of authority. For their crimes they were given death sentences that were to be carried out on the beach, an uneasy reminder to anyone of the fate that awaited them should they dare to follow in the footsteps of the four unfortunate men. Carel was strangled on a pole and April, Carta and October were hanged- all on the beach where the thefts were perpetrated – strengthening the effect of exemplarity with a direct notion of locality of the crime.⁹⁴ Van Den Henghel was following a similar line to his predecessor.

In this same vein, many punishments carried peculiar prerequisites relating directly to the crime, so that all who saw the execution of these punishments would know the end result of similar perpetrations. Often articles involved in the crime, such as a weapon that was used or at times representations of the effected parties involved in a crime, such as the pelt of an animal that was stolen, would accompany the accused in the execution of their punishment. This was the case when the runaway slave Porfet van Batavia was charged with armed robbery and sheep theft in 1738, whilst Needer was at the fiscal’s helm. Porfet was hanged with a sheep pelt and his

⁹⁰ Ibid, p. 250.

⁹¹ “(with the intent of) scaring others”

⁹² “(with the intent of) punishing this flagrant disobedience”

⁹³ CA, CJ 12, pp. 23-4.

⁹⁴ CA, CJ 19, pp. 48-69.

weapon above his head at the gallows.⁹⁵ Examples of this nature were numerous at the Cape in the 1730s.

The reason for this exemplary effect that the court at the Cape was trying to achieve can be traced back directly to the European roots of the VOC's make-up, most notably in the Netherlands itself. The very notion of punishment being performed in a public sphere was a cogent aspect of European maintenance of public order, especially in the seventeenth century. Physical punishments and executions were designed to instill fear in the beholder, to the point that they would act as deterrent towards future criminal activity.⁹⁶

Punishment of this nature began to take on the form of ritual, where the physical execution of punishment on the living body, as well as the exacting of the will of the state on their corpses all fell under the public eye. To 'maximise' the efficacy of display, bodies (or parts thereof) were placed along the busiest inter-urban routes where anyone entering or leaving the city would become part of, as Spierenburg so aptly calls it, the 'Spectacle of Suffering'. On the whole it seems that the execution itself served as example to the inhabitants of the cities themselves, whilst the display of corpses was a special warning to non-residents – though one could surely believe this fate was feared equally by those from within.⁹⁷

The Cape followed suit. Ross notes that the full sentences of the condemned would be read out to the assembled population from the balcony of the Castle. The execution ground lay alongside the only road into town, between the Castle and the sea. After execution bodies were taken to the gallows and left to disintegrate in the harsh Cape elements, displayed to all who made use of the roads and as example for the outcomes of crossing the Company.⁹⁸

The second rationale behind punishment was that it should be made to fit the crime. In this way it was adjudged that the greater was the ferocity of the crime, the greater should be the severity

⁹⁵ CA, CJ 20, pp. 70-1; CA, CJ 342, pp. 180-191.

⁹⁶ Spierenburg, P. *The Spectacle of Suffering – Executions and the Evolution of Repression: From Preindustrial Metropolis to the European Experience* (Cambridge, 1984), pp. 54-9.

⁹⁷ Ibid, pp.54-9.

⁹⁸ Ross, R. *Status and Respectability in the Cape Colony, 1750-1870: A Tragedy of Manners* (Cambridge, 1999) p.17.

of the punishment. This highlights McLynn's second penal theory, that punishment should be wholly, or at least partially, centred on retribution.⁹⁹ As Merback puts it, retribution is 'a nice legalistic word meaning revenge'.¹⁰⁰

The most overt form of retribution was evident when the Company posited that it had itself been injured by the defendant. Company rule was law and crossing the Company often had dire consequences for offenders. In this case retribution was not sought in terms of a crime that deserved a certain punishment (or as we may understand it to have a punishment that is fair based on the crime committed) because of the nature of the crime itself, but rather by the very nature of disobedience and flagrant disregard for Company law. We have seen this with regards to the slave Schipio and how the fiscal duly noted his disregard for the law.¹⁰¹

In 1737, Lena van de Caab, a Company slave, also succumbed to the wrath of the Company when she came close to paying the ultimate price of her life. She made the mistake of stealing from the Company gardens and the fiscal recommended that she be put to death by strangulation and that her corpse be displayed at the gallows. Luckily for her the court found some lenience (possibly because she was a Company slave and therefore an asset to which they could attach value) and sentenced her instead to be flogged on her bare back, to be branded and to spend the rest of her life labouring on Company works.¹⁰² Defying the authority of the VOC was taken very seriously.

Even some persons of higher rank found that disobeying Company law had costly outcomes if caught. For instance, the prominent Cape member and burgher councilor, Jan de With, had a run in with the justice system when he contravened laws surrounding the sale of alcohol and illegal trading. On 9 May 1737 the court found him guilty and charged him 1000 Rijksdaalders for his contravention. The fiscal added that a man in his position 'should know better'.¹⁰³ Another eminent member of Cape society, Henning Jochem Prehn, a burgher and *Vaandrig* (an Ensign,

⁹⁹ McLynn, F, p. 249.

¹⁰⁰ Merback, *The Thief, the Cross and the Wheel*, p. 134.

¹⁰¹ CA, CJ 12, pp. 23-4.

¹⁰² CA, CJ 19, pp. 95-7; CA, CJ 341, pp. 192-201.

¹⁰³ CA, CJ 19, pp. 39-41; CA, CJ 341, pp. 115-21.

the third highest military rank in the VOC)¹⁰⁴ was brought before the court for the same transgression and on 10 March was found guilty. The court however showed some lenience and halved his fine to 500 Rijksdaalders after he claimed that he did not know of the *placcaat* that outlined the stipulations of alcohol trade, with the court stating further that ‘it could have happened to anyone’.¹⁰⁵

This shows that higher ranking members of society were being tried by the courts, though noticeably for certain crimes and sometimes with a reconfiguring of the extent of the crime itself, as highlighted in Chapter 2. Nonetheless, it shows that all were privy to the Company’s will. One can however see that they were certainly treated differently than their lower ranking counterparts, in that higher status afforded greater credit with the courts and, one could also argue, a seemingly different set of applicable punishments.

Even murder was recategorised as assault when it came to burghers who murdered their slaves – as if the life of a slave was too inconsequential to usher the crime of murder or manslaughter and therefore the offenders were exposed to wholly different punishments more fitting of assault. This is evident, for instance, in the case of Jacob van Bochem and Jacob Sweitzer who, after beating a slave, Marcus, to death received punishments of a fine and a banishment respectively. Bochem was a burgher and Sweitzer was a corporal, men of somewhat higher ranking than most that came before the courts.¹⁰⁶ Similarly, the *landbouwer*, Jan Crugel, who was brought before the court for his involvement in the beating of a slave who died subsequently in 1732, was merely fined for his involvement as the court felt that there was not enough evidence to prove it was in fact the beating that killed the slave.¹⁰⁷ In 1737 too, two *landbouwers*, Johannes Groenewalt and Jan Verbeek were brought before the council on charges of assault and the murder of the slave Abraham van der Caab. After a series of appearances the court decided on a punishment of a fine for both men and removal of privileges for Johannes Groenewalt, an ‘Oud Burgerraad’. In November of the same year the two accused came before the court once more,

¹⁰⁴ Bruijn, F.S.; Gastra, S. & Schoffer, I. *Dutch Asiatic Shipping in the 17th and 18th Centuries* (The Hague, 1987) p. 211.

¹⁰⁵ CA, CJ 17, pp. 11-3; CA, CJ 339, pp.14-20.

¹⁰⁶ CA, CJ 16 pp. 1-3, 13-19; CA, CJ 338 pp.39-117

¹⁰⁷ CA, CJ 14, pp. 26-7, 32-3.

claiming that the whole situation had injured their good names.¹⁰⁸ The status of the offenders seems to have been crucial in this case as well as the others mentioned here.

McLynn notes the third purpose of punishment as being that of rehabilitating the criminal.¹⁰⁹ The Cape's justice system, however, had not evolved sufficiently to the point where this third aspect can be considered as a viable prospect for the 1730s. As McVay put it, with regards to the courts of the VOC, 'the court had no techniques for fostering or encouraging desirable behaviour, only for punishing offenders'.¹¹⁰

There were instances when criminals were sentenced to labour on public works or to suffer a period in confinement, which one might consider as the foundation for a rehabilitative punishment scheme in that it mimicked aspects of such a prison system. At times punishment was aimed at the constructive use of prisoners but lacked a system of imprisonment with a direct aim of enabling criminals to once again join society in a rehabilitated state. Thus, punishment centred more directly on the first two theories of exemplary deterrence as well as various forms of retribution. Only later in the early to mid nineteenth century, does one begin to see a more constructive and rehabilitative role of the penal system at the Cape.¹¹¹

That is not to say that punishment at the Cape had no rehabilitative elements. The very nature of reintegration and quite often of placing offenders directly back into the service of the Company through either forced labour or simply demotion, not to mention the fact that after completion of sentences offenders were still likely to be bound to their contractual obligations with the VOC, are all indicative of a form of rehabilitation. In this way the Company was able to align its punishment methods with its financial and military responsibilities.

¹⁰⁸ CA, CJ 19, pp. 34-7, 71, 82-3, 89-90, 92-3, 109-15, 148-9; CA, CJ 341, pp. 275-382.

¹⁰⁹ McLynn, F, p. 249.

¹¹⁰ McVay, *I am the Devil's own*, p. 63.

¹¹¹ See Corry, T.M. *Prison Labour in South Africa* (Cape Town, 1977) and Van Zyl Smit, D. *Prison Labour in South Africa* (Cape Town, 1996) for general accounts of the formation of prison systems in South Africa, including the Dutch and British colonial periods. Also useful in understanding the role and nature of prison labour at a specific outpost, see Bergemann, K. 'Prison Break - 1850: Montagu's Lost Cause' in Worden, N (ed). *Historical Approaches 4* (University of Cape Town, 2007), pp. 19-30.

Having now established some of the primary purposes of punishment, the following section will endeavour to uncover the methods of punishment used abroad, in Europe and later in the section, Batavia, comparing and contrasting the methods used at the Cape. In this section too we will examine the specific punishments handed out to offenders for certain crimes in the hopes of uncovering the concept of unequal punishment at the Cape, where issues such as status and ethnicity came to be as important (if not more so) in the outcomes of punishment as were the particulars of the crime.

McVay touches on how the characteristics of the individual were picked up by the courts and in her study of Batavia, the most notable of VOC outposts, she highlights the role of a ‘highly stereotyped’ profiling system. She maintains that the attributes of defendants featured as prominently as their crimes, or that they may in fact have been linked. She boldly asserts that if one knew the rank, ethnicity and sex of a defendant, one could narrow the range of crimes for which he or she was prosecuted to within two or three possibilities. She states further that, conversely, if one knew the crime charged, one could accurately guess the status, ethnicity and sex of the defendant.¹¹² This is hypothetical and it is not to say that punishments necessarily fluctuated according to these characteristics, but what is definitely shown in her work is that the courts were acutely aware of the particulars of the offenders and that these particulars most likely influenced the outcome of trials. She also shows how they may even have influenced who appeared before the court – positing a system of internal justice, with the *Raad van Justitie* as a type of ‘last resort’.¹¹³

Negotiating Measures of Punishment: Comparative trends abroad and at the Cape

¹¹² McVay, “*I am the Devil’s own*”, pp. 82-3.

¹¹³ Ibid, pp. 84-96.

“A few odd remnants of the laws of an ancient conquering race... since jumbled together with... customs... and bundled up in the rambling volumes of obscure academic interpreters – this is what makes up the tradition of opinions that passes for law across a large portion of Europe...”¹¹⁴

In order to understand the rationale behind the types of punishments levied at the Cape it will be useful to investigate the nation states from which many of its inhabitants once hailed. European law and punishment techniques would have been the most likely influence on developments in territories abroad and given the fact that punishments were carried out in accordance with the powers granted to the courts by the States General of the United Netherlands and considering the possibility of cross-state influence and general trends it is crucial to outline what was passed down from European states – the Netherlands and other nations included.

Merback distinguishes European states by their rapid transformation of legal structures from the twelfth century onwards, especially in England, France and the Italian states. In Germany and the Netherlands, however, he notes a distinct difference. In these realms the overlapping prevalence of customary law and what he observes as a ‘grudging admission’ of neo-Roman law set the tone for the administration of jurisprudence. In this we find a multiplicity of sources, theories and overlapping jurisdictions and even after the promulgation of the Holy Roman Emperor Charles V’s *Constituto Criminalis Carolina*, in 1532 (on which much of the law in these countries was loosely based)¹¹⁵ a single, prevailing law code was difficult to establish in these places.¹¹⁶ From this we glean that interpretation of available laws and a great variability in punishment was the order of the day. This spread to colonies and controlled territories under European influence and the specific circumstances encountered there further complicated matters.

¹¹⁴ Bellamy, R (ed). *Beccaria: On Crimes and Punishments and other writings* (Cambridge, 1995), p.3. Beccaria’s tongue-in-cheek, yet decidedly apt take on European systems of law and punishment form the introduction to his works in a section dedicated to ‘the Reader’. This highlights at least one contemporary scholar’s assessment of the situation.

¹¹⁵ Evans, R.J. *Tales from the German underworld: Crime and Punishment in the Nineteenth Century* (London, 1998), p. 24. Also, Spierenburg, P. *The Spectacle of Suffering*, p. 87.

¹¹⁶ Merback, *The Thief, the Cross and the Wheel*, pp. 130-1.

Punishment methods in European States

Spierenburg usefully divides physical punishments according to severity in both corporal and capital spheres. He notes throughout his works the public nature of punishment and its theatrical character.¹¹⁷ Focusing on the Netherlands, but often equating punishments in terms of a more general European experience, he highlights a range of penal options from aggravated forms of the death penalty to minor sanctions, with various forms of corporal punishments, exposure on the pillory, forms of bondage (such as galley servitude or confinement in prison workhouses), banishment, fines and a host of minor obligations or prohibitions.¹¹⁸ On German punishment in the seventeenth and early eighteenth centuries, marked by influence of the *Carolina*, Evans notes much the same situation, with capital and corporal punishments ranging from decapitation, breaking with the wheel, burning at the stake and burial alive to mutilation of the face, tongue, nose or ears, branding, whipping, beating and exposure to public scorn.¹¹⁹ As we have seen in Chapter 2, punishment at the Cape in the 1730s mirrored these trends, with some variation in the types of punishments, both capital and corporal, with extreme methods such as live burial and burning at the stake being among the exceptions.

On French punishment around the late 17th century Foucault writes that an ordinance of 1670 regulated the general forms of penal practices in the country. The ordinance outlined a judicial hierarchy of punishments comprising:

“Death, judicial torture..., penal servitude, flogging... [and] banishment. Capital punishment comprises many kinds of death: some prisoners may be condemned to be hanged, others to having their hands cut off and then to be hanged; others, for more serious crimes, to be broken alive and to die on the wheel, after having their limbs broken; others to be broken until they die a natural death, others to be strangled and then broken, others to be burnt alive, others to be burnt after first being strangled; others to be drawn by four horses, others to have their heads cut off, and others to have their heads broken”¹²⁰

¹¹⁷ Spierenburg, P. *The Spectacle of Suffering*, pp. 54-58. Spierenburg, P. ‘The Body and the State: Early Modern Europe’ in Morris, N. & Rothman, D.J. (eds), *The Oxford History of The Prison: The Practice of Punishment in Western Society* (New York, 1995), p. 52.

¹¹⁸ Spierenburg, ‘The Body and the State’, p.51.

¹¹⁹ Evans, *Tales from the German Underworld*, p.98.

¹²⁰ Foucault, M. *Discipline and Punish: The Birth of the Prison* (Middlesex, 1977), p. 32.

French punishment, by this account, was a matter of great variation, with Foucault stating further that there were also lighter punishments accepted by the court, such as satisfaction to the injured party, warning, reprimand, a short stint in prison, prohibition from entering certain areas as well as pecuniary punishments such as fines or confiscation.¹²¹ He adds that the ordinance, apart from the outline of capital punishments, also contained a high degree of physical punishment. Importantly, he also notes that “Customs, the nature of the crimes [as well as] the *status of the condemned* accounted for still more variations” [*my italics*].¹²²

What he does not reveal is whether the ordinance outlines this as law or whether it is simply the habit of the court to take these into account. The latter is the most likely but it is still relevant as it highlights the nature of at least one European state’s justice system as one that allowed external attributes to influence (or perhaps, by their understanding, strengthen) the judgements passed against offenders.

Foucault warns that one should not, however, be misled by what he calls this ‘arsenal of horrors’. The ordinance simply outlined the possible punishments the court had at its disposal, but in everyday practice capital punishment formed only a small proportion of penal practice. The courts quite often found ways of relaxing harsh sentences, either by refusing to prosecute offenders that were too heavily punished or by modifying the definition of the crime (just as we have noted elsewhere that the fiscal at the Cape had ample lenience and power to maneuver within the bounds of law and personal opinion). At times, certain ordinances of a particularly severe nature were softened on demand of the royal powers.¹²³

Spierenberg sets about the task of ranking punishments according to their severity (being the amount of pain each was meant to inflict). In his study he begins by outlining corporal punishments on this basis and then focuses on capital punishments, though for our purposes here it will be better suited to look at capital punishments first as it will allow for an analysis of punishments based on a certain crime, namely murder. Murder was the most likely crime to receive the death penalty (we have noted in chapter 3 that the texts from which punishments

¹²¹ Ibid, p. 32.

¹²² Ibid, p. 32.

¹²³ Ibid, pp. 32-3.

were derived pushed for the death penalty in these instances). Corporal punishment can be analysed in terms of another crime that was more likely to carry a punishment of this nature, namely assault (though, as will be seen, punishments for this crime were not limited to corporality).

The role of capital punishment

At the Cape, *ledebraken* (having one's limbs broken due to blunt force trauma) and hangings were commonplace, although used only in specific instances where capital punishment was seen as necessary and fitting. Other capital punishments included beheadings, drowning at sea, impalement, strangulation and, keeping in line with the military nature of VOC punishment, death by firing squad – these, however, featured sparsely throughout the 1730s. Capital punishments were often accompanied by harsh, torturous punishments prior to the death of the offender, such as the removal of intestines or the pulling off of skin with hot iron tongs. Post-death punishments were also common features and public display was a usual occurrence. However, it was hangings and *ledebraken* that topped the list of most common death penalties though, with each occurring 41 and 29 times respectively in the 1730s.¹²⁴

Spierenberg's division of severity for capital punishments is based firstly on whether a penalty involved either an instant or prolonged death. Depending on this and then the relative extent of pain for each punishment, he ranks capital punishments accordingly.¹²⁵ These then too carried with them yet another form of severity division, in that, symbolically, they were attributable to versions of honourable or disgraceful means of death. Dating to medieval times, jurisprudence made considerable allowances for the social status of criminals, thus creating a system perceived by both elites and popular culture as staining the accused (and their families) according to the punishment received. Among the dishonouring punishments were hangings, breaking on the wheel, burning and every variety of dismemberment.¹²⁶ European tradition held decapitation as most honourable, particularly when performed with a sword.¹²⁷ This allowed for a supposed

¹²⁴ Keeping in mind, though, that 16 of the 41 hangings occurred in 1738 and 11 of the 29 *ledebraken* in the same year. *Ledebraken* here are tallied as a total of 'with' and 'without the *coup de grace*'.

¹²⁵ Spierenberg, 'The Body and the State', pp. 53-5. Also Spierenburg, *The Spectacle of Suffering*, pp.70-3.

¹²⁶ Merback, *The Thief, the Cross and the Wheel*, pp. 141-2.

¹²⁷ Spierenburg, 'The Body and the State', p. 54.

opportunity to die gloriously, courageously and fearlessly, as one may have done in battle, suiting noblemen, for whom warfare was viewed as a birthright, and any high-ranking patricians, for whom this penalty also appropriated the aura and symbolism of warfare, amounting to substantial cultural capitalism.¹²⁸

At the Cape we find a complete reversal of the role of decapitation compared to its honourable role in European states. Here, in the 1730s, three cases of beheadings occurred, two in 1738 and one in 1739. In all of these the punishment was handed out as a form of dishonouring the offenders. Two slaves, Fortuijn and Matthys, mercifully killed the slave Damon of Nias in an effort to prevent him having to suffer harsh punishment for his crimes of murder and ‘gruweldaaden’ (gruesome deeds). For defying the company they were beheaded and their heads were placed on stakes as an example to others.¹²⁹ The same fate befell Estienne Barbier the following year, when he was, along with other forms of dismemberment, beheaded and had his head and body parts placed on several stakes.¹³⁰ It is obvious that here the punishment served a different purpose in comparison to European origins.

One punishment that may possibly have been considered as more honourable at the Cape, considering its military role, was that of death by firing squad. This punishment was only handed out three times in the period, twice in 1735 and once in 1739. The case of David Scheffenaer, a matroos and *knecht* from Amsterdam, accused of murder in 1735, is notable in this regard. When confronted with a recommended punishment of death by hanging, Scheffenaer pleaded that he rather be put to death by firing squad. Exactly why the court acquiesced to his request is not known, but they handed down an altered sentence nonetheless. Added to this they further made provisions that Scheffenaer be buried (he would likely have been displayed at the gallows, so this too was an expression of a more honourable punishment).¹³¹

¹²⁸ Merback, *The Thief, the Cross and the Wheel*, p. 142.

¹²⁹ CA, CJ 20 pp. 20-1.

¹³⁰ CA, CJ 21, pp. 69-72, 75-8; CA, CJ 344-IV, pp. 1-299.

¹³¹ CA, CJ 17, pp. 30-3; CA, CJ 339, pp. 110-29. A strange case occurred in the same year however, in which this seemingly honourable death sentence was handed to the soldaat Christiaan Carel van den Bosch. The punishment is strange as no other case of rape received this kind of sentence. CA, CJ 17, pp. 88-91; CA, CJ 339, pp. 284-311.

In terms of the first sense of punishment severity, an ‘instant’ death was considered the lighter. In Europe this category included hangings, garrotings, beheadings and live burial (though one may want to dispute that the last of these could be thought of as a lighter sentence).¹³² These can be considered the more “merciful” of capital punishments in that offenders would likely die within minutes (one would hope), whereas other punishments may have spanned hours or even days. At the Cape the list of punishments with more instantaneous deaths could be expanded to include drowning at sea. Drowning at sea is an interesting punishment, its use was reserved especially for offenders who committed the crime of sodomy and it occurred on nine occasions in the 1730s. The Cape followed the European standard of using hangings as the most common non-honourable and non-prolonged form of death penalty. As one writer suggests, the popularity of hangings lay in its merit of being easy and cheap, since the only requisites were a rope and something from which to hang the accused.¹³³ In the eyes of the mercantile company, it must have suited their purposes ideally.

The more brutal punishment and one that was common at the Cape in the sphere of prolonged deaths was *ledebraken* (breaking with the wheel). This punishment too had variations though – and these variations could make a great difference in the amount of suffering the accused underwent. The offenders undoubtedly suffered heavily regardless of the type of *ledebraken* inflicted. Breaking on the wheel had its origin in a Frankish mode of punishment, wherein a convict was laid over deep tracks in the ground, fastened down and then driven over by a heavily laden wagon. In later times, with the introduction of the scaffold, a reminder of the initial punishment was preserved through the use of a wagon wheel, with the hangman using it to hit the convict until dead. This would however have been a strenuous task. In early modern times the punishment was further simplified by tying the convict to the wheel instead and breaking his limbs with an iron bar. In Amsterdam even the wheel fell away – though, admittedly, convicts were often strung up at the gallows on wagon wheels, so the wheel managed to always be around as either a literal part of the punishment of breaking with the wheel or as a figurative reminder of the punishment’s origins.¹³⁴

¹³² Spierenburg, ‘The Body and the State’, p. 54.

¹³³ Burford, E.J. & Shulman, S. *Of Bridles and Burnings: The Punishment of Women* (New York, 1992), p. 103.

¹³⁴ Spierenburg, *The Spectacle of Suffering*, p. 71.

At the Cape, as in most European nations (with perhaps early modern England as the exception, where prolonged death penalties were practically unknown)¹³⁵, we find two general variations of *ledebraken*. The first, in which a *coup de grace*, a merciful death blow (likely to the chest or heart), was inflicted upon the victim after being broken alive was stipulated at the Cape on twelve occasions in the period 1730-1739, with a notable seven of these occurring in 1738. As we have noted previously, possible aggravations in the colony at that time may have given rise to harsher punishments being inflicted on its citizens, particularly those that were more likely to face these kinds of punishments.

The second, more brutal variation of the punishment allowed for the victim to lie alive at the gallows after being broken on the wheel, until they died “naturally”. This variation occurred at the Cape more often than the more lenient form of allowing a *coup de grace*, tallying 17 cases in the 1730s. These were however more spread out across the period and most likely served as reinforcing examples to the population. Added to this, the punishment of being broken on the wheel often carried the stipulation that it be inflicted ‘from below’, meaning the executioner would begin breaking limbs from the bottom of the victim’s body, likely at the shins, then moving on to the thighs, upper arms and forearms.¹³⁶ It must have been an excruciating punishment to undergo, and, one may posit, perhaps even one that would be difficult to carry out, providing the executioner was not sufficiently desensitized to the pain he caused his victims. Regardless of the fierce nature of the crime, its prevalence at the Cape underlined its popularity as the prominent mode of prolonged death penalty both in this VOC territory and in European homesteads.

Capital punishments for the crime of murder

Having now ascertained the extent of capital punishment both in Europe and the Cape, we can use the crime of murder to highlight the specific ways offenders of different groups were punished in the eighteenth century as a whole. The tables below outline murder statistics for the period 1700-1800. Although they do not cover each and every case in the century they nonetheless offer insight into general trends of the period. They are also divided more crudely

¹³⁵ Spierenburg, ‘The Body and the State’, p. 52.

¹³⁶ Spierenburg, *The Spectacle of Suffering*, p. 72.

than some of the data we have been using in previous chapters, but this is due to the source of the information and the way the divisions are made in it. What they do however provide is an insightful mode of comparison as the division Heese has chosen outlines perhaps the most stark difference between the condemned, that of ethnicity rather than status.¹³⁷ Heese's divisions outline the murder charges under headings of 'Europeans and Burghers' who are then contrasted to a wholly separate section of 'Slaves and Khoi', as seen in the following tables.¹³⁸

Europeans/Burghers¹³⁹

Years	Hanged	'Ledebraken'	Firing Squad	Banished	Symbolic + Banished	Ran Away	'Ledebraken' + Beheaded
1700-10	1	-	6	-	1	-	-
11-20	2	-	-	3	-	-	-
21-30	3	-	1	-	-	-	-
31-40	4	-	2	2	-	-	-
41-50	1	-	1	1	-	-	-
51-60	1	-	5	-	-	-	-
61-70	-	1	2	-	3	-	-
71-80	1	-	-	2	2	-	-
81-90	2	1	-	-	-	1	-
91-1800	1	-	-	2	-	3	3
TOTAL:	16	2	17	10	6	4	3

/60

¹³⁷Heese, H.F. *Reg en Onreg: Kaapse Regspraak in die Agtiende Eeu* (Bellville, 1994), pp. 122-271.

¹³⁸ Ibid, pp. 122-271.

¹³⁹ The information for this table was gathered from Heese, *Reg en Onreg*, including all murder cases in his 'Addendum II: Europeërs en Burgers wat aan die Kaap op Kriminele Aanklagte Gevonnis was, 1700-1800', pp. 122-157; as well as some cases selected at random from his section 'Addendum III: Slawe, Khoisan en ander wat aan die Kaap weens Kriminele Klagte teen hulle Gevonnis was (1700-1800)', pp. 158-271. Heese notes the punishment of 'gefusilleer', translated here as execution by firing squad. Two sentences are not included here, being the death by strangulation of a woman in 1714 and the beheading of a man in the period 1781-90, as they were single deaths that would not fit aptly in the table. With these two added the total tally is 60.

Slaves/Khoikhoi¹⁴⁰

Years	Hanged	'Ledebraken'	Brutal Torture	Banished	Symbolic + Banished	Ran Away	'Ledebraken' + Beheaded
1700-10	1	2	1	-	-	-	-
11-20	-	2	-	-	-	-	-
21-30	2	2	1	-	-	-	-
31-40	2	4	1	-	-	-	-
41-50	3	9	3	-	-	-	-
51-60	3	6	1	-	-	-	-
61-70	1	4	1	-	-	-	1
71-80	1	3	-	-	-	-	-
81-90	-	2	-	-	-	-	3
91-1800	-	-	-	1	-	-	1
TOTAL:	13	34	8	1	0	0	5

/62

The major differences in punishment methods between these two groups is evident from even a surface investigation of the punishments levied on the slaves and Khoi as opposed to their European counterparts. This is made especially clear by the number of the former that were executed by means of *ledebraken* – a staggering total of 34 – more than half of the sample. A mere 2 convictions of the same nature were imposed on the sample of Europeans considered here. If one includes all counts of *ledebraken*, the result is that 39 slaves or Khoi, as opposed to 5 Europeans, were executed in what was surely one of the most painful punishments in use at the time. This means that, according to this particular data set, slaves and Khoi were sentenced to these punishments nearly eight times more than their European counterparts.

It is also evident that brutal tortures, such as being burnt alive, having body parts chopped off, one's flesh torn with hot iron tongs or most often a combination of these (what I have termed in earlier chapters as 'punishment torture') were meted out on eight occasions in the sample of slaves and Khoi, whilst they do not feature at all in the European sample. Instead of brutal torture

¹⁴⁰ The information for this table is taken from Heese, *Reg en Onreg*, in his section 'Addendum III: Slawe, Khoisan en ander wat aan die Kaap weens Kriminele Klagte teen hulle Gevonniss was (1700-1800)', pp. 158-271. The cases were chosen arbitrarily as there were many more cases in this field than in the previous one. As such, the tally tried to align as close in number to that of the Europeans. Obviously, in doing so not all of the cases could be included, so these tables do not try to provide an absolute number of murders and sentences, but rather provide a sample from which certain patterns can be deduced. Heese's recordings of cases are not complete in any case, as a number of cases were found in Baartman, T. *Council of Justice: Cape Town Criminal Cases 1730-59* (University of Cape Town, 1994) that were not included in his tally. Not included from Heese's information is the case of Sara, who was strangled to death in 1795. With her death included to those in the table the tally reaches 62.

in the European table what we find is the punishment that Heese notes as ‘*gefusilleer*’, translated here as death by firing squad. Of course, it needs to be taken into account that certain punishments, by their very nature, could only be levied against certain societal groups.¹⁴¹ In this case, the firing squad was more than likely a punishment reserved for soldiers or military personnel. Still, that does not explain why only slaves and Khoi were exposed to brutal torture in this sample.¹⁴² Nor does it explain why no slaves or Khoi from this sample were given the sentence of ‘symbolic’ punishment and none were recorded as having fled from justice, as four of their European counterparts were noted as having done late in the century.

It is also of interest to note from the above tables that a large percentage of Europeans escaped the death sentence – these are murder statistics, and based on what we know about the decision to impart death as a punishment, one would expect a death sentence to follow, albeit that one may hypothesise more lenient death sentences for the Europeans. As large a proportion as a third of the sample of Europeans escaped death. This is made evident by tallying the columns of banishment, symbolic punishment and including the four that fled from justice. This trend is in stark contrast to what Spierenberg notes in Amsterdam, covering a similar period, from the mid seventeenth to mid eighteenth centuries where he states that, in this period ‘the death penalty was always exacted except in one instance... Thus all forms of killing were always considered equally serious, so that we do not have to look for a trend in punishment. Assault may be a different matter.’¹⁴³ Only one person was lucky enough to escape death in the sample of slaves and Khoi.

In 1796, at the time of the first British occupation, the new rulers indicated their displeasure with the old regime’s system of punishment. The court responded that their principles of punishment held no status-related inequalities and that all men were punished equally and with equal fervour. They did, however, admit that where slaves were concerned, the quality of punishment increased when crimes were committed against Europeans or free persons, particularly their masters.¹⁴⁴ In a

¹⁴¹ For more on this and how it featured in other VOC controlled areas, see McVay, “*I am the Devil’s own*”, especially chapter 4, where she deals with the role of social dynamics of crime. pp. 78-97.

¹⁴² Of course we do know of at least one case where a European was sentenced to torture as part of the punishment ritual, that being Estienne Barbier in the late 1730s, see CA, CJ 21 pp. 69-72, 75-8; CJ 344-IV, pp. 1-299. It is more the trend that is brought up in Heese’s work that is of interest here not whether or not the results are absolute.

¹⁴³ Spierenburg, *Spectacle of Suffering*, p. 120.

¹⁴⁴ Ross, R. *Status and Respectability*, p. 18.

system that depended on and demanded subservience and obedience from an oppressed class as a prerequisite for the maintenance of its social and economic structure, it made sense for punishments to become more stringent when crimes violated the dominant class. Although this is a sentiment made much later in the century, it represents a council that tries to present itself as fair in its treatment of offenders.

The problem with this sentiment was, as the data shows, that when it came to the murder statistics under investigation, the evidence suggests that unequal punishment existed regardless of whether the crime was perpetrated against a European or not. This is evident from the fact that only around 30% of all murders committed by slaves were against Europeans (owners or otherwise), whilst the majority (around 60%) of murders were committed against fellow slaves and the rest against Khoikhoi, San and Free Blacks.¹⁴⁵

Quite simply the court throughout the eighteenth century – despite their later claims of equal treatment – punished the classes of slaves and indigenous persons far more brutally and rigorously than it did any other class. This could have been exacerbated by the fact that the VOC was operating under completely different circumstances to what they would have encountered on European soil, where the issue of slavery never existed and where the ‘criminal population’ was made up mostly of the unemployed, landless or the otherwise economically impoverished.¹⁴⁶

Corporal punishments and severity

Corporal punishment was more of an ‘everyday occurrence’ at the Cape and brought to the fore the most usual methods of punishment. These invariably included floggings, brandings, mutilation, stints in the “*donker gat*”, torture as part of the interrogation process and, once again lending from a military punitive function, running of the gauntlet. There were also further punishments that one might outline as chastising punishments. These included demotions, deportation or banishment, expulsion from the company, stints of labour for the company or (in the case of slaves) for one’s owner, privilege removal, pecuniary fines and symbolic punishments.

¹⁴⁵ Heese, *Reg en Onreg*, p. 88.

¹⁴⁶ McVay, “*I am the Devil’s own*”, p. 84.

In ranking the severity of corporal punishment, Spierenburg notes that whipping was the lightest and most common form throughout Europe.¹⁴⁷ Its use at the Cape in the 1730s is distinctly evident by the 300 times it was brought into effect – and at just over 32% of all punishments noted in the period, it features as the most prominent recourse for officials of the council, often in conjunction with other punitive measures. The Cape followed the standard formula of condemnation, as in the Netherlands, where floggings stipulated that the offender be ‘brought on the scaffold (or the place of punishment execution) and be severely whipped there’.¹⁴⁸

It was not always stipulated at the Cape exactly how floggings were to be administered, though in the Netherlands the adage that it should be inflicted on their bare backs¹⁴⁹ set the tone and this often features in the court’s stipulations at the Cape. The case of Cupido van Mallabaar¹⁵⁰ shows evidence of this, whilst the *landbouwers* Pienaar, Coetse and Pretorious’ case exemplifies a flogging by the *mattroosen*, usually carried out at the docks, another common adage at the Cape.¹⁵¹ The more usual stipulation was that offenders be flogged by the executioner’s helpers, the *Caffers* – the case of the *matroos*, Christiaan Hendrikz is a good example of this.¹⁵²

The amount of lashes given in Amsterdam seems to have been a matter of magisterial preference. From 1740-2 Jacob Bicker Raye noted five instances of floggings, in which the lashes received ranged from thirty-six to forty-one. In some cases, notably when branding featured as part of the punishment (and where, presumably, an offence of a more severe nature occurred), floggings of fifty or more were noted. In severe cases of floggings in 1737, two men received eighty-three and seventy-eight lashes respectively. Spierenburg feels that about forty lashes constituted the average amount in both the seventeenth and eighteenth centuries, noting the biblical prescription of thirty-nine or forty lashes as a likely source of this stipulation. As at the Cape, floggings were occasionally accompanied by objects relating to the specific offence.¹⁵³

¹⁴⁷ Spierenburg, ‘The Body and the State’, p. 53.

¹⁴⁸ Spierenburg, *Spectacle of Suffering*, p.68.

¹⁴⁹ Ibid, p. 68.

¹⁵⁰ CA, CJ 20, pp. 41-4.

¹⁵¹ CA, CJ 20, pp. 36-7, 46-51.

¹⁵² CA, CJ 20, pp. 33-5.

¹⁵³ Spierenburg, *The Spectacle of Suffering*, pp. 68-9.

The next punishment in order of severity involved branding or burning the skin of offenders. Branding usually left a permanent scar and helped in the identification of recidivists, as well as imprinting a mark of authority on the convicted criminal. Branding in Europe usually involved burning with red-hot irons, or, in some instances, with the heated blade of a sword and by the early modern era had come to be placed most often on the shoulder of an offender.¹⁵⁴ In the 1730s branding was enforced on 45 occasions at the Cape, occurring consistently throughout the period, with usually around four or five brandings a year.

Punishments imposed for assaults

Before moving on to the third level of corporal severity it would be useful to investigate, as we did with murder and capital punishment, a crime that fetched, most often, a corporal punishment. The crime of assault offers insight into the types of punishments the court levied and allows for the highlighting, once again, of inconsistencies based on the characteristic of both the offender and the offended. It is important to compare the two crimes because, as we have seen, one can expect the crime of murder to fetch harsh punishments, most likely resulting in death sentences, though one would not as readily expect the same for a crime notably lesser in its ferocity. One finds that corporal punishments were more common for the crime of assault, though, as will be shown, even this crime was open to ambiguous and unequal sentencing based on the status of the persons in question.

It is evident from the data that the status of the offenders in the cases of assault we are about to examine were the primary factor in the level of severity meted out by the council. However, investigation also shows that the status of the offended (the 'victim' in each case) seems to have played a vital role in the punishments exacted upon the offenders.

When one examines the offender group of slaves, notably the lowest of statuses at the Cape, this point becomes doubly clear. Slaves received by far the harshest punishments for committing assault. Punishments fluctuated to even higher levels of severity when the status of the victim increased.

¹⁵⁴ Spierenburg, 'The Body and the State', p. 53; Spierenburg, *The Spectacle of Suffering*, pp. 69-70.

For example, Anthonije van Bengalen, the slave of one Jacob Bochem, assaulted a fellow slave named Lena van Batavia in 1732. He received what one might consider a ‘standard’ punishment for a slave who committed assault (given that the crime was committed against a person of equal status to Anthonije)¹⁵⁵ of a flogging, a branding and 20 years hard labour.¹⁵⁶ In a similar case of assault, involving the slave Alexander van Bengalen, albeit a case in which he was charged with sheep theft too, we see a similar punishment being imposed. Alexander was sentenced to a flogging, branding and 25 years hard labour for the Company.¹⁵⁷ Both these cases exhibit fairly harsh punishments, though these are lenient in comparison to what happened to slaves if they attacked higher ranking people, notably their owners.

In 1735 such an offence occurred where the slave Pieter van Samboua was charged with having assaulted his owner and others. The fiscal recommended that Pieter be sentenced to *ledebraken* without the *coup de grace*. The council acquiesced to his recommendation and also sentenced his corpse to be displayed at the gallows.¹⁵⁸ Death was the fate of any slave brazen enough to assail their masters. The cases that follow illustrate this point even more so, where the threat of assault and the act of insubordination, more so than actual assault itself, lead to severe penalties being imposed on the offenders.

As Cupido van Mallabaar, Hoemar van Boegis, Augustus van Bengalen and Alexander van Macassar all found out, threatening one’s owner, or a person of higher status, as well as acts of actual assault led to severe consequences as will be seen below.

The court noted that for his ‘acting like a criminal’, wherein he threatened the life of his owner’s wife, threatened taking his own life and then assaulted and threatened the life of his owner, Cupido should be sentenced to a *ledebraken* from the bottom up, without the *coup de grace*,

¹⁵⁵ It should be kept in mind too that the ferocity of the crime itself, that being its level of severity, would also have played a part in the nature of the type of punishment imposed. However, the cases looked at here cover a broad enough spectrum to include high enough levels of ferocity with others so that it becomes not so much a case of how much damage was inflicted but more often than not a case of who such damaged was inflicted upon.

¹⁵⁶ CA, CJ 14, pp. 73-4; CA, CJ 336, pp. 333-42

¹⁵⁷ CA, CJ 17, pp. 115-7; CA, CJ 339, pp. 377-85.

¹⁵⁸ CA, CJ 17, pp. 33-6; CA, CJ 339, pp. 130-45.

thereafter to be exposed at the gallows.¹⁵⁹ The court seems intent on the idea that his behaviour in threatening his owners was the key factor here (giving the impression that the actual assault likely did not have a particularly serious outcome). In a similar incident, another slave, Hoemar, trapped his master's wife, her younger sister and their maid in a room, threatening to assault them. His master's wife and the maid were able to escape through a window but Hoemar was able to attack his master's sister-in-law before being apprehended by his master and fellow slaves. The council sentenced Hoemar to the same fate as Cupido.¹⁶⁰ In a near similar experience the slave Augustus was also found guilty of insubordination and hanged for his crime, with his body also being displayed at the gallows.¹⁶¹

In an instance where no actual physical assault occurred, but where the slave Alexander threatened his master, the *onderkoopman* (junior merchant), Abraham Dekker, with a knife, a severe punishment was imposed nonetheless. Alexander was sentenced to be hanged and have his body displayed at the gallows, although the fiscal recommended *ledebraken* without the *coup de grace*.¹⁶² This emphasises the role of status of not only the offender but of the offended as being crucial in the understanding of severity of punishment.

These cases indicate a higher severity of punishment for what seem less serious crimes than the murders that Europeans committed in the sample looked at earlier, yet many of those offenders still escaped death. It could be argued that these cases illustrate attempted murders, for which harsh punishments could be expected, though they are no more murderous in intent than some of the cases we will investigate shortly where not nearly so severe sentences were imposed. One aspect that should be mentioned, however, is the fact that the cases investigated thus far all occurred in 1739, notably a period of particular unrest in the colony where slave insurgence was dealt with harshly due to the nature of its prevalence. Chapter 5 deals with these issues more directly.

The next most precarious status position in the 1730s, as we have noted throughout the dissertation, was that of the sailors and soldiers. Comparing the punishments they received for

¹⁵⁹ CA, CJ 21, pp. 44-6, CA, CJ 344-II, pp. 36-74.

¹⁶⁰ CA, CJ 21, pp. 48-50; CA, CJ 344-II, pp. 104-33.

¹⁶¹ CA, CJ 21, pp. 51, 54-5, 57-8; CA, CJ 344-II, pp. 134-78.

¹⁶² CA, CJ 21, pp. 81, 84-5, CA, CJ 344-VI, pp. 31-83.

cases of assault (also with varying degrees of severity and performed on various status groups) one would expect that they too would receive fairly hefty sentences, given that their ranks were on the bottom end of the social scale (though still higher than that of the slaves). This however was not necessarily the case and the punishments they received do more to confirm the status of slaves as by far the lowest group in the period.

Once again, highlighting offences of those with the same status should provide a type of ‘standard’ for the punishments meted out on this group. The case of Art Knaap, a sailor from Ramsdonk, was such an instance. In 1732 Knaap threatened and assaulted his fellow sailor, Daniel Martensz. The fiscal recommended that he be flogged by the *matroosen* (sailors) and be fined six months’ pay. The council decided that the fine alone would suffice.¹⁶³ Already we see that punishment of this group was by no means as severe as that of slaves.

Jurgen Hendrik Keijzer from Hamburg, a sailor, was charged with assaulting his fellow matroos, one Frans van der Sort in 1733 and was sentenced to be flogged by the *matroosen*. The council chose not to act on the fiscal’s recommendation that he be banished to Robben Island for three years.¹⁶⁴ Theunis Sieverts from Liste, also a sailor, assaulted the sailor Jurgen Kort in 1736. He was sentenced to be flogged by the *caffers* and to hard labour for the Company for 18 months, as per the fiscal’s recommendation.¹⁶⁵ From these examples we get an understanding of the types of punishments meted out when assaults were levelled against same-status victims. Fines, floggings and relatively short periods of hard labour are however far from the types of punishments the slaves encountered.

Interestingly, in the cases that appeared in the 1730s where assaults were levelled at those status groups one might consider of the lowest types, punishments were more severe than the simple ones noted above, though only slightly. However, it may have been that the particular circumstances surrounding the assaults led to an aggravation of sentencing in these instances. In 1733 the sailor Hendrik Coerse from Copenhagen was brought before the court, having assaulted (or, as the council puts it, ‘committed brutalities’ upon) a group of slaves. Admittedly these were

¹⁶³ CA, CJ 14, pp. 88-9; CA, CJ 336, pp. 361-4.

¹⁶⁴ CA, CJ 15, pp. 16-8; CA, CJ 337, pp. 41-56.

¹⁶⁵ CA, CJ 18, pp. 71-3; CA, CJ 340, pp. 245-53.

the slaves of the fiscal. He was sentenced to be flogged by the *caffers* and was banished from the colony.¹⁶⁶ In 1737, a group of *soldaaten* (soldiers), namely Frans Loewijk Prison from Mulbeek, Johan Nicolaas Suring from Apelstad and Hendrik Tieffenbach from Frankfort, assaulted a slave named Clara and two Chinese named Tantsianko and Oanko. The fiscal recommended that the soldiers be flogged and receive three years hard labour. The council adjudicated to proceed with the floggings, whereafter they banished the soldiers from the colony.¹⁶⁷ Although these punishments could be said to be slightly more severe in that banishments occurred they still fall short of slave punishments.

One case of *soldaaten* assaulting someone of higher rank (though only moderately higher) occurred in 1733, when Joost Sonnius from Ronsvaen, Marten Jacobsz from Hertogenbosch and Jan Marechal from Besancon appeared before the council on charges of drunkenness and assault. The victim in this case was August Phillip Remmers, a corporal. The fiscal recommended that the group run the gauntlet three times and thereafter be banished to 'Judia'. The council sentenced the soldiers to be flogged and banished them from the colony.¹⁶⁸ Still we see no evidence of severe treatment for these crimes of assault. It may have been that these were not necessarily very serious cases of assault – the council does not highlight them as such, as it does in other cases, particularly when knives were used and where stabbings occurred. Perhaps it would be useful to investigate these and compare the punishments received.

Laurens Burmanije, a soldier from Loropsant, appeared before the council in 1731 for charges of what the court notes as 'violent assault' (with a knife) when he stabbed two *mattroosen*, Jacob Smit and Claas Jacobs Bakker at the home of the freeburgher Carel Didrik Buijtendag. In a rare instance the fiscal recommended that Burmanije be flogged on his bare back, adding that he be further punished with five years hard labour. The court sentenced him to be flogged by the *caffers*, to be deported as a *mattroos* and fined him three months pay.¹⁶⁹ Here we see a fairly serious case of assault, yet the punishment still seems fairly standard, comparable to the cases investigated above.

¹⁶⁶ CA, CJ 15, pp. 3-5; CA, CJ 337, pp. 6-8.

¹⁶⁷ CA, CJ 19, pp. 41-3; CA, CJ 341, pp. 125-43.

¹⁶⁸ CA, CJ 15, pp. 70-2; CA, CJ 337, pp. 252-68.

¹⁶⁹ CA, CJ 13, p. 68; CA, CJ 335, pp. 326-38.

Similarly, the soldier Jan van Rossum was brought before the court in 1734 on charges of assault, involving a stabbing, against the sailor Joris Harpe. Here the fiscal recommended a flogging and five years hard labour but the court once again opted for a flogging along with banishment as a *mattroos* and a fine of three months pay.¹⁷⁰ In a case where a soldier assaulted a fellow soldier and stabbed him, the same sentence was meted out. Pieter van Hegeraad from Wesel assaulted Adriaen Lijnback in 1736 and once again the court denied the recommendation of Company labour and decided on demotion, deportation, flogging and a fine instead.¹⁷¹ It could have been the case, considering the trends noted in chapter 2 regarding more lenient sentences for soldiers and sailors over slaves, that this group was in short supply and high demand, being a valuable commodity in the VOC world, necessitating more lenient punishments that allowed them to still be fit enough to work. Still, this does not explain the matter entirely.

In a 1734 case of assault we see the first signs of the court enlisting a more severe punishment. The *soldaat* and *houtkapper*, Hendrik Willem Peperling stabbed the *mattroos* Jurgen Harmense Scholts. The fiscal suggested that Peperling appear with the knife used in the assault displayed above his head, whereafter he be flogged, branded and put to work for six years doing hard labour for the Company. What seems to have set Peperling aside was that the council noted his assault as premeditated.¹⁷² This may have led to harsher sentencing by both the fiscal and the council. Another relatively harsh sentence was one passed on Johannes Mutsker from Rijtlingen, a *soldaat* that assaulted the hospital superintendents in 1739. The fiscal recommended that he run the gauntlet three times. The council followed his recommendation.¹⁷³ These two cases form the basis of the most severe punishments meted out against this low-status group. However, they are still nowhere near the severity of punishments imposed against slaves (even for those less serious offences slaves committed) and importantly, no death sentences were imposed on soldiers and sailors for assault offences throughout the period. This further marks the slave status as particularly susceptible to unequal punishment.

The following case is surely the most revealing of the role that status played in the handing down of sentences as we shift our attention to some higher ranking persons in the period. On 20 May

¹⁷⁰ CA, CJ 16, pp. 58-9; CA, CJ 338, pp. 148-63.

¹⁷¹ CA, CJ 18, pp. 12-4; CA, CJ 340, pp. 24-31.

¹⁷² CA, CJ 16, pp. 66-8; CA, CJ 338, pp. 170-85.

¹⁷³ CA, CJ 21, pp. 81-2, 86; CA, CJ 344-VI, pp. 84-113.

1734 Petrus Adolphus de Bertrie appeared before the court on charges of assault. Petrus was the commander of the ship, *Loosdrecht*, affording him a very prestigious rank at this time. De Bertrie had been making a nuisance of himself a few nights earlier when he was confronted by the *ratelwacht* (the nightwatch charged with enforcing curfew). Whilst on patrol, two *ratelwacht* came across four men outside the house of the free black, Claes Jonasz, between 11 and 12 o'clock. The *ratelwacht* ordered the men to return to their homes or posts, whereupon de Bertrie attacked the two men with a sword, wounding one of them. It may be the case that a man of his social stature was likely offended by having the two *ratelwacht*, of notably lower rank, tell him what to do and blatantly dismiss his supposed superiority. The *ratelwacht* managed to subdue de Bertrie but when one of his own friends came near he seized his sword and continued his attack. Again he was overpowered.

From de Bertrie's case we perhaps have an even more serious offence than the previous ones, since he blatantly defied Company law, breaking curfew, resisted arrest and wounded a man by stabbing him with his sword. One would expect the Company to take these offences seriously and delineate a harsh punishment. On the contrary. De Bertrie was merely charged a fine of 100 *rijksdaalders* to the court and 30 to the injured *ratelwacht* and was thereafter released. The role of status in this cases is made obvious. Despite the severity of the crime, the outcome did not reflect consistent retribution.

There are also cases where assaults blatantly favoured the offender based on their status, notably when the assault was executed by a slave owner. We have seen how instances of slaves assaulting their owners fetched hefty punishments but the same was not true for owners. The case of Jan Wollegast, a *molenaar* (miller) at the Cape, who was brought before the court on charges of having assaulted his slave in 1732 is a clear example of the inequalities afforded by status. Among the various methods of his assaults, one slave in particular was treated to a harsh beating and had salt rubbed in his wounds to further his suffering. The slave was then strung up by his wrists. The court labeled this as a crime of slave abuse. For his crime Wollegast received a recommended punishment of a fine of 50 Rixdollars and to have his slave removed from him. The court agreed to the fine but allowed Wollegast's slave to remain in his possession on the

condition that the same did not occur again.¹⁷⁴ This evidences a recategorization of what crime the offender was indeed committing as well as what was considered as suitable punishment for the crime based on the role in society they filled – the slave was, almost naturally so, without rights, whilst privilege was afforded to others in society.

Wollegast again appeared before the court in November of the same year, again for charges of assault of a slave, this time a female slave who died thereafter. However, the courts did not impose any punishment as they ruled that Wollegast was temporarily insane and the post mortem revealed that the slave died from a fever, not from the blow she received from Wollegast. It was not taken into account whether the beating caused or aggravated the fever.¹⁷⁵ Wollegast once again escaped lightly.

Yet another case that highlights the role of the status of the offender, as well as that of the offended, is that of Anna van der Weij, a *burgeress* (yet another characteristic to cloud the issue of status, this time adding the factor of gender), who was charged with assault with murderous intent in 1733. The victim in this case was Frederik Brand, a *soldaat*. Van der Weij claimed that she was attacked first and that her actions were in self-defence. The fiscal disagreed and pointed out that based on the evidence he collected that was not the case. He recommended that she be confined to the '*donker gat*' for two months on a diet of bread and water as well as a fine of 400 Rixdollars and the covering of costs for Brand. The court stated that it took both the testimony of van der Weij as well as the available evidence into consideration and decided that only a fine of 300 Rixdollars would be levied.¹⁷⁶ In this case the status of a *burgeress*, as opposed to the *soldaat*, seems to have afforded her some lenience, although this is not stated outright. It is however unclear to what extent her gender played a part in the court's willingness to lighten the recommended sentence, as this is never made directly known by them.

Another case of interest shows the contrast between what happens to a slave who attacked the ruling class (as with the seven offenders mentioned earlier) and one who assaulted within their own status was that of Anthonije van Bengalen, slave of Jacob Bochem, who was charged with

¹⁷⁴ CA, CJ 14, pp. 20-2; CA, CJ 336, pp. 112-9.

¹⁷⁵ CA, CJ 14, pp. 86-7; CA, CJ 336, pp. 357-60.

¹⁷⁶ CA, CJ 15, pp. 30-2; CA, CJ 337, pp. 145-60.

the assault of a fellow slave, Lena van Batavia, in 1732. Unlike those who were given the death sentence, Anthonije was flogged and branded and sentenced to 20 years hard labour.¹⁷⁷ It is, however, useful to compare this to the cases above where the *matroos*, the burger and the ship's commander were sentenced to notably lighter punishments.

Corporal punishment continued and the changing nature of punishment abroad

Coming back to Spierenburg's ranking of corporal punishments, the third form of such punishments involved the mutilation of the offender's body, in instances where they were permitted to live (there were of course instances where mutilations of various natures accompanied death sentences too). Earlier European punishments included amputation of hands, blinding, cutting off of ears and up until the 1730s, a slash on the cheek with a knife or a razor was sometimes imposed. In the eighteenth century, offenders could lose their thumbs for the act of large-scale fraud.¹⁷⁸ However, after 1650 it was unusual for visible bodily mutilation to be called into effect. Spierenburg accounts for this by admitting an intensifying revulsion against mutilation between 1550 and 1650. This revulsion preceded the rise against public executions themselves but formed part of a more general process of the decline of the physical content and public character of punishment. Although the exact chronology varies, the trend throughout most countries was the decline of bodily deformation throughout the sixteenth and seventeenth centuries, which set the tone for the eighteenth century.¹⁷⁹

Spierenburg notes that judges and legislators belonged to the elite and, affected by the attitudes of their class, they invoked the power to alter penal law or at least discontinue certain penal practices. Around the middle or end of the seventeenth century one starts to notice the disappearance of penalties involving mutilation in Europe, notably the cutting off of ears. An even earlier development involved the changing attitude towards branding. Usually the executioner imprinted the mark on a convict's hand or forehead, whereas he later only branded the offender's back, where clothing could hide the mark. Spierenburg admits that mutilation did still occur, though only in serious cases and only as a prelude to death.¹⁸⁰ As time wore on, the

¹⁷⁷ CA, CJ 14, pp. 73-4; CA, CJ 336, pp. 333-42.

¹⁷⁸ Spierenburg, 'The Body and the State', p. 53; Spierenburg, *The Spectacle of Suffering*, p. 75.

¹⁷⁹ Spierenburg, *The Spectacle of Suffering*, pp. 75-7.

¹⁸⁰ Spierenburg, P. 'The Body and the State', p. 59.

very nature of corporal punishment and its viability came to be questioned, as one Prussian Court noted in the mid eighteenth century, its effectiveness was tainted by disparity:

“...in itself the variability of criminals’ physical constitution makes the effect of corporal punishment variable as well, and a beating that might be trivial in itself can mean a hard and painful punishment for those criminals whose previous circumstances have not accustomed them to such treatment, or whose physical constitution is more sensitive to beatings than is that of other offenders.”¹⁸¹

A number of simultaneous developments in European states also contributed to the changing nature of penal practice in the early seventeenth and into the eighteenth century. Social and cultural processes such as privatization (the gradual withdrawal of previously public features of life into private arenas), the changing character of the family and the changes in attitude towards punishing the body as well as political and institutional processes such as the formation of national states and the refinement of justice systems, notably the shift towards confinement in prisons as the primary mode of punishment, are all key features of what was previously thought of as simply a gradual shift away from cruelty.¹⁸² The nature of punishment and its role in public spheres was evolving rapidly in early modern Europe.

Thus far we have focussed on European trends and have managed to make important comparisons showing both the similar natures of punishment techniques as well as some of the peculiarities at the Cape that reflected the nature of an assertion or interpretation of available punishments that differed from what we see in Europe at the time. McVay’s study on Batavia is useful furthermore as it outlines direct differences that would have been faced in the VOC territories, stating that it was the very nature and make-up of these societies, especially with regards to the different aspects of the criminal population as well as the types of governance available that led to what she notes as ‘consistent patterns of difference’ to European prosecutions.¹⁸³ Of course, Batavia itself was also wholly different in certain aspects from the Cape, but the basic effects of being a VOC territory allows for some major points of comparison.

¹⁸¹ Evans, *Tales from the German Underworld*, p. 101.

¹⁸² Spierenburg, ‘The Body and the State’, p. 52.

¹⁸³ McVay, *I am the Devil’s own*, p. 84.

McVay notes that those familiar with early modern European criminal prosecution will find much that is familiar with processes in the Dutch East Indies. She however goes on to show that specific differences such as the presence of slaves rather than household servants or apprentices, the large numbers of military and quasi-military personnel in Company towns, the various levels of effectiveness of church courts, the use of forced labour instead of imprisonment as well as the definition of what sectors of the population could be considered criminous all came to alter the dynamics of reporting and prosecuting crime in these territories.¹⁸⁴ These were issues that European states themselves did not have to contend with in as drastic a form. Similarly, only some of these are applicable to the nature of the Cape's criminal prosecutions.

An important factor that sets Batavia apart from other VOC territories lies in the division of its criminal jurisdictions. Essentially the city had three main institutions tasked with dealing in both civil and criminal matters. Formally, there were two courts who dealt with defendants in criminal matters, namely the *Schepenbank*, who dealt with non-VOC employees (civilians) and the *Raad van Justitie* (Council of Justice), who handled all VOC related affairs, although it was the latter that had primary jurisdiction, not just in Batavia but over the other *Raden van Justitie* in the East Indies.¹⁸⁵

Thirdly, on an 'informal to semi-formal basis', Batavia had the council of the Dutch Reformed Church that aided as the initial channel in criminous administration. In effect the formal courts mentioned above were ideally places of last resort and dealt only with cases that had slipped through the church's channels. Hence many criminal defendants were people that had already spent a period of time receiving the attention of the church council. Through the church the Company extended instruction, correction and assistance in matters spiritual and material. In the eyes of the Company the church operated as a symbolic parent. The church had several powers with which to enforce its wishes, none of which resorted to fines, imprisonment or bodily harm. It used its keys to education, marriage, welfare, the power to refer matters to criminal courts and visitations as necessary influences on its members. Importantly, the church also controlled

¹⁸⁴ Ibid, p. 84.

¹⁸⁵ Ibid, p. 64.

admissions to communion, a right many of its members held as absolute in asserting membership to the general community, one that centred itself on supposed Christian values.¹⁸⁶

Although the Cape did not necessarily have this same recourse to the power of the church as a major role player in criminal affairs, or at least as far as we know, it likely did have an effect on those that administered justice. We have already noted elsewhere the role religious ideals as well as religious works played in the sentences handed down, but the role of the church may in fact have ran deeper than originally thought. Besides Batavia, other VOC stations relied primarily on a single administrative body, in their *Raden van Justitie*, in dealing with criminal matters – this is true for the Cape as well as for Ternate, Timor and Melaka, as McVay has shown.¹⁸⁷

Perhaps more applicable to the Cape is the second differentiation between the outposts and Europe, that being, as McVay has highlighted, the transient and disproportionate (status-wise) community in Batavia. The most likely offenders would have been bachelor soldiers and sailors, who effectively lived their lives in the public eye and rarely had private dwellings. The least likely to be caught were children and married women, who spent most of their time inside a household, where it was held that personal discipline and order should be maintained by the father. McVay also states that slaves were not likely to have come through the courts because offences could be ‘smoothed over’ by owners.¹⁸⁸

The Cape definitely mirrored the trend of soldiers and sailors being a predominant feature among criminal offenders, with a large total of men belonging to this category appearing before the Cape council in the 1730s, amounting to just over a third of all cases.¹⁸⁹ However, the notion of slaves being ‘protected’ from the court could not have been any more dissimilar at the Cape. A total of 187 men and women from this category were sentenced in the same period, also amounting to more than a third of all cases.¹⁹⁰ It is difficult to tell just how many slaves were left to the disciplining of their owners rather than the courts but from what we do come across in the

¹⁸⁶ Ibid, pp. 55-8.

¹⁸⁷ Ibid, p. 64.

¹⁸⁸ Ibid, p. 66.

¹⁸⁹ 35% to be more exact.

¹⁹⁰ 36% in this case.

criminal records one can tell that owners could be especially brutal.¹⁹¹ These two categories alone made up more than 70% of all persons who were sentenced by the Cape council in this period.

The notion of criminous perspective (that being who it was that was understood as making up the criminal population) is especially significant when understanding who came before the courts. McVay finds it curious that in Company garrison towns such as Ternate and Timor, where the community would have been far smaller and less transient, sailors and soldiers became the backbone of respectable society. Here the 'lower classes' of the Company hierarchy were much more responsible for upholding honour and reputation, especially since they tended to be more permanent personnel with a greater stake in maintaining order and a personal worth.¹⁹² In Batavia, however, over 90% of the criminal community came from this same group. There soldiers and sailors appeared as drunks, bullies and as untrustworthy, irresponsible people. There were a large number of unattached young men in this town, who were often emotionally detached from the VOC, with few responsibilities and little incentive to behave responsibly.¹⁹³ The Cape, it seems, fell somewhere in between these spheres, where at times soldiers and sailors seem the bane of the courts, but where their prominence does not feature quite as strongly as in Batavia but is shared with the Cape's slave community.

The other point of comparison to be drawn is with the types of punishments meted out to offenders (or as McVay likes to call them, defendants).¹⁹⁴ Unfortunately, her analysis focuses on the corporal punishments the Company made use of and makes little mention of death penalties. That aside, she does highlight some interesting punishments, especially in that she notes punishments that were specific to the military. These included having one's weapons dashed to the ground and being declared unfit to serve in the militia ever again (this was more of a process of public humiliation), being keel-hauled (which was rarely fatal when carried out by the Dutch as the offender was covered in leather from chin to toe), running the gauntlet (which occurred at the Cape on several occasions throughout the 1730s) and having one hand tied to one's back

¹⁹¹ Jan Wolegast's slaves make for a good example.

¹⁹² McVay, *I am the Devil's own*, pp. 79-80.

¹⁹³ Ibid, pp.78-9; 92.

¹⁹⁴ Ibid, p. 97. McVay avoids the terms 'criminal' and 'crime', owing to the perfunctory nature of trials and the role of the court to prove guilt at all costs. She feels the nature of a court in which torture was often threatened or used or where the accused had no 'voice' to be heard, should lead to cautious steps being taken.

whilst the other was stuck to a mast with a knife, to be struggled free as best as possible (common in cases of shipboard assault).¹⁹⁵ We have also looked at one capital punishment borrowed from the military, namely death by firing squad. The nature of the VOC as a military power and naval project meant that these features of military punishment would have been key in many of its outposts.

McVay highlights a prevalent characteristic of punishment throughout European states, in Batavia, in other VOC territories and at the Cape itself – public humiliation and symbolic punishments. We have mentioned those public punishments that aimed at either humiliation or just general public awareness and display and which involved actual physical punishment, such as floggings and brandings. Aside from those, there were a host of punishments that aimed not at physical punishment but at blatant humiliation and a removal of honour and integrity or as warning for future transgressions – issues that were held in high regard across most places we have looked at thus far.

In Batavia convicts could be made to stand on the scaffold wearing a placard with words like “thief” or “fornicator” written on them. Another popular method of humiliation was to make the offender sit on the ‘wooden horse’, a sawhorse with an edged central wooden beam, wearing weights attached to their feet.¹⁹⁶ There were also symbolic punishments such as metaphorical displays of execution, by either stroking the offender with the flat side of a sword, swinging a sword above their heads or by draping a noose around their necks.¹⁹⁷ Symbolic punishments at the Cape mirrored these of Batavia and occurred (including weapon display as mentioned previously in this chapter) during the 1730s on 25 occasions.¹⁹⁸

Conclusion

¹⁹⁵ Ibid, p. 69.

¹⁹⁶ Ibid, pp. 69-70. See also Evans, *Tales from the German Underworld*, fig.13. In the drawing displayed Evans shows us the dishonouring process in a classroom setting. Dating back to early modern times and through the nineteenth century various punishments were used to foster discipline and encourage hard work. In this picture the ‘ass of shame’ and the donkey’s cap are displayed, whilst it is mentioned that the two birches displayed in the picture were used in corporal punishment.

¹⁹⁷ McVay, *I am the Devil’s own*, p. 70.

¹⁹⁸ See for instance CA, CJ 14, pp. 1-5, where 3 slaves were made to parade with a noose round their necks before being flogged and branded.

This chapter has compared and contrasted the punishment techniques and some possible motives for punishment in European states, in VOC controlled territories with Batavia as a main example and at the Cape itself. There is much evidence to highlight the similarities of all these areas but it is the differences that stand out and make for interesting analysis.

Much of the Cape's punishment system was implemented in a way that reflected the make-up of Cape society and allowed for stratification of punishments in much the same way that society itself was stratified. This it had in common with Batavia, as McVay highlights.

We see such punishments as demotion, deportation, the running of the gauntlet, facing a firing squad and expulsion from the company as directly applied to Company employees such as the sailors and soldiers. Labouring for one's owner or under the Company occurred solely due to the role that indentured labour played at the Cape, with slavery being a unique attribute of the outposts, it not being practiced in the Netherlands. A punishment such as privilege removal could only be carried out where such privileges were in existence, such as with the Cape's number of settled burghers.¹⁹⁹ In this way we see that the specific composition of the Cape's inhabitants played a major role in determining the types of punishments meted out and also played a role in deciding who came before the court in the first place.

There were of course the more 'common' punishments that regulated criminal society much as it did elsewhere. Floggings, hangings, brandings, fines and short stints in the 'donker gat' were used extensively. More severe punishments such as *ledebraken*, beheadings, removal of intestines, mutilation of the body such as quartering or slicing of body parts as well as impalements and drownings also made their appearances in the Cape records. It has to be said that not all of these occurred throughout the decade, the latter part of it – notably under Needer as the fiscal – featured by far the most intense period of this arsenal of punishments. Mutilations and intestine removal, as well as an increased period of torture as part of the punishment ritual

¹⁹⁹ This however only happened once in the period under investigation, in 1737, when the *landbouwer* and *Oud Heemraad*, Johannes Groenewalt was charged with the assault and murder of a slave. His recommended punishment was that he have his privileges and status removed, that he spend three months in the *donker gat* on a diet of bread and water, thereafter to be banished from the colony and have his possessions confiscated. The court however relaxed his sentence extensively by only sentencing him to having his burgher privileges removed and fined him 200 Rixdollars. CA, CJ 19, pp. 34-37, 71, 82-83, 89-90, 92-93, 109-115, 148-9; CJ 341, pp. 275-382.

were all dominant features of this latter period. This is particularly interesting as it is at this point where the move abroad was away from the harsher forms of punishment that included mutilation and any form of torturing as punishment, with the German state of Prussia featuring as the most progressive on this front, formally abolishing torture as early as 1754.²⁰⁰

What was clear is that there was a tendency to frown on bodily mutilation and torture, whilst at the Cape, these particular tendencies were being picked up with greater vigour at this point. One may even go as far as to say that at the Cape there was a sense of penal stagnancy – when looking at the century as a whole (as with the tables presented in this chapter), punishments seem to have been fairly standardized throughout the period and instead of a type of enlightenment, as we see in European states, one almost finds a regression of thinking, where, even within a decade, punishments at times became even harsher. In this way the Cape stands out.

Chapter 5

Quelling Slave Revolt: Van Den Henghel and Needer in the late 1730s

Introduction

²⁰⁰ Evans, R.J. *Tales from the German Underworld*, p. 99.

Early in 1737 Daniel Van den Henghel presented an *eijsch* to the Council of Justice, with Adriaan Van Kervel presiding at its head. The case uncovered a foiled plot that would have endangered many lives of Cape Town's inhabitants and one that involved a number of runaway slaves who had come together to form a considerable *droster*²⁰¹ gang, that, over time, made itself notorious enough to be noticed by some of the Cape's most important figureheads.²⁰² Their escapades in the colony, primarily in the False Bay area near *Vis Hoek* and *Hanglip*, saw them engaging in a number of different crimes, ranging from murder, theft, arson, disturbing the peace, assault, as well as '*gewapende complot*' (armed revolt/rebellion).²⁰³

The Company had seen its fair share of gangs such as these, who sustained themselves living on the margins of colonized society by surviving off the land or adopting parasitic behaviour, preying on the resources of colonizers, indigenous inhabitants or other runaways.²⁰⁴ As early as 1686 the Council of Policy began outlining punishments for *drosters*, who had become a continual nuisance. They resolved to punish recaptives through a beating with rods, the amputation of an ear and the attachment of chains to their persons. In 1711, with the situation of runaways seemingly unimproved, the punishment was upgraded so that first offenders would also be branded on their cheek, second offenders would have their second cheek branded and, if caught for a third time, the offender could have his ears and nose cut off. These punishments were, however, contingent on the offender not having committed any death-deserving crimes.²⁰⁵

The existence of such a group of *drosters* so late in the 1730s was itself a seemingly rare occurrence. Penn notes that during the first three decades of the eighteenth century, conditions were favourable for runaways, as the colonial frontier petered out relatively close to Cape Town, and up until the late 1720s *droster* gangs grew in both 'numbers and audacity' with little let up in activity.²⁰⁶ However, by the 1730s there were few reports of these fugitive gangs, with the colony

²⁰¹ Penn, N. *Rogues, Rebels and Runaways: Eighteenth Century Cape Characters* (Cape Town, 1999), p. 73. From the Dutch word *drossen*, meaning 'to run away' or 'to desert'.

²⁰² Including, at this point, the members of the council, but also prominent burghers such as the oud Burgeraad, Johannes Kruijwagen, who was particularly concerned with the leader of this '*troep*'. CA, CJ 341, pp. 24-6.

²⁰³ CA, CJ 19, pp 1-7, 9-14.; CA, CJ 341, pp. 1-73.

²⁰⁴ Penn, N. *Rogues*, pp. 73, 81.

²⁰⁵ *Ibid.*, pp. 73-4.

²⁰⁶ *Ibid.*, pp. 75-89.

having expanded to the extent where it was difficult for them to evade capture, especially within the Groenekloof, Saldanha Bay and Stellenbosch districts. The main area of *droster* activity shifted its centre to the Piketberg and surrounding areas, though with an increase in commando activity in the 1730s evasion became doubly difficult.²⁰⁷ Proximity to any colonized area was always risky due to the inevitability of encounters and eventual capture.²⁰⁸ This does not seem to have been of particular concern for this group and they managed to survive on the margin for a number of years, despite repeatedly pillaging from posts near the town as well as continually venturing to the very fringes of the town itself.²⁰⁹

In his *eijsch*, dealing with the offenders one by one, Van den Henghel meticulously recorded every detail of both the group and the individual's movements. Every bit of information (from number of pots an offender stole, to the weapons they carried, to the ways in which they carried out murders) was plotted out to form a story of overlapping narratives based on the testimony of the particular offender under investigation, whilst the fiscal noted corroborating evidence from other witnesses or accounts and throughout his *eijsch* voiced his own opinions on certain situations. The *eijsch* became a collection of gathered fact, pieced together to show specific guilt, interlaced with the subjectivity of the fiscal and backed by the function of ridding the colony of further evil. In as much as the actual events recorded are important in forming this narrative, so too does the presence of the 'fiscal's voice' come to play as vital a role in our understanding of the events that took place in the world of crime, its recording and in the punishment thereof.

This chapter investigates Van den Henghel's case in 1737, as well as another case of *drosters* in 1738, when Johannes Needer was at the fiscal's helm. It aims to isolate some of the key factors that we have noted in previous chapters, such as the relevance of the status of both offender and offended, the notion of maintaining company law, of punishing with the aim of deterrence, of the role of religious perspective in recording and meting out punishment, of the individuality of the fiscals and the way crimes were considered. Here we have the benefit of investigating specific instances as opposed to the broader generalizations made earlier. We can establish to what extent the fiscal's recommended punishment was related to his estimation of the gravity of the crime.

²⁰⁷ Ibid., pp. 89-90.

²⁰⁸ Ibid., p. 76.

²⁰⁹ CA, CJ 341, pp.1-39.

The *eijsch* also provides interesting details about the movements of the *droster* gangs and the types of activities their daily lives entailed. It is however an analysis of the ‘fiscal’s voice’ that will be prioritized here.

To do this it is necessary to highlight the specific ways the fiscal put the *eijsch* together. By reading his particular style and the comments he made regarding both his reasoning of the events that occurred as well as why he felt that certain elements should be highlighted and acknowledged, one is able to gain insight into the way he went about assigning blame and relaying recommended punishments – a critical aspect in the analysis of the *eijsch*.

1737: Leander’s droster gang and its ‘gruweldaeden’²¹⁰

The *droster* gang of *Vis Hoek*²¹¹ consisted of various members over various points in time, growing and dwindling in size as it went along and at one point, towards the end of its existence, the gang split in two, though the groups stayed in contact and within close enough distance to aid one another should trouble occur.²¹² For the most part though, before the split, the group was headed by Leander, who is noted throughout the fiscal’s *eijsch* as the ‘Captain’ of the group.²¹³

Many of the offenders who came before the court in this case were captured by a commando patrolling the area and after numerous skirmishes it was the *drosters* that came off second best.²¹⁴ It would appear that after numerous acts against the colony by slaves, including the *Hanglip drosters*, commando activity became increasingly necessary, especially after cases of deliberate arson were uncovered in 1736.²¹⁵

²¹⁰ ‘Gruesome deeds’

²¹¹ For a more detailed account of the activities of this group over time, see Ross, R. *Cape Of Torments: Slavery and Resistance in South Africa* (London, 1983), pp. 54-73. Ross’s chapter provides a thorough account of the movements, activities (especially the role of arson) and means of subsistence of the droster gang in the *Hanglip* area, detailing events both before and after the capture of several of its members in 1738. The captured individuals investigated here formed only a part of the group’s 50 or so members over time.

²¹² CA, CJ 342, pp. 17, onwards.

²¹³ CA, CJ 342, pp. 1-40.

²¹⁴ CA, CJ 342, pp. 12-39.

²¹⁵ Ross, *Cape of Torments*. p. 54.

Although the group's two most prominent members, Leander and Jumath, were still at large at that stage, some other important members appeared before the court, on 17 and 31 January, 1737. These included Alexander van Bengalen, who appears in the records separately from the rest of the slaves though he is noted as having been part of the gang and partaking in their crimes.²¹⁶ Alexander was possibly separated out from the rest as he was the one member of the group who was not simply a runaway slave but an escaped convict that had been part of a chain gang at the fort. He escaped with three other convicts, though they soon parted ways and he came across the slave of the free black, Robert Schott, named Barkat. Together, on the farm of Juffrouw Ten Damme, they carried out the first of a number of crimes Alexander would commit as a *droster*. From there he left and met up with members of Leander's gang.²¹⁷

The other members of this gang that appeared in the fiscal's *eijsch* and then before the court were Tamboe van Madagascar, Joseph van Mallabaar, Januarij van Bengalen, Anna van Madagascar, Dina van Rio de la Goa and Diana van Rio de la Goa. The amount of time spent *drosting* by these individuals ranged from the shortest period of around a year, for Diana, the slave of the burgher Marshoorn²¹⁸, to ten or eleven years for Anna, who ran away from her owner after receiving a beating and subsequently setting the house of a fellow slave alight ("*in brand wierd gestookt*").²¹⁹ Although each of these slaves had varying levels of complicity in the crimes committed, either as individuals or as part of the group, they all received the death penalty, with the fiscal's reasoning for his punishments given throughout his *eijsch*, as will be investigated here. All of the offenders were also sentenced to have their bodies displayed at the gallows after their initial sentences had been carried out.

Together the accused accounted for a number of murders, thefts, assaults, disturbing the peace and armed rebellion. As the fiscal also explained in the *eijsch*, the capture of a number of these slaves prevented a planned conspiracy that involved the poisoning of a town waterhole that would have endangered the lives of many of the Cape's inhabitants as well as the many visitors (and ship-bound members of the community) to her shore.²²⁰ The primary instigator in this

²¹⁶ That is to say separately in the *Sententien*, though is grouped in the same *eijsch* as the rest.

²¹⁷ CA, CJ 342, pp. 1-7.

²¹⁸ CA, CJ 341, p. 37.

²¹⁹ CA, CJ 341, p. 26.

²²⁰ CA, CJ 341, pp. 1-73. See especially pp. 27-33 on this conspiracy.

conspiracy was Anna and as will be seen, her actions and level of involvement in the primary acts for which the group were charged led to severe sentencing.

Her fellow slaves also received sentences of death through various methods. Alexander and Tamboe were both sentenced to be bound to a cross and received the punishment of *ledebraken* from the bottom up without the *coup de grace*. Joseph and Januarij were hanged. Anna was bound to a pole, had burning straw thrown in her face and was then strangled to death. Dina and Diana were also strangled to death. Added to these initial sentences, all were sentenced to be displayed at the gallows, with Tamboe, Anna, Dina and Diana being placed on *rads* (stakes) and Joseph and Januarij being rehanged there. These final judgements passed by the court did not differ from the fiscal's recommended punishments.²²¹

Throughout his *eijsch* the fiscal relied on a number of indicators to determine the gravity of offences, thereby allowing him reference to the severity of punishment he wished the court to administer. It is these indicators that will be investigated here.

Assignment of blame

From the start one notes the emphasis Van den Henghel places on intention and the assignment of blame. It is the specific way he appropriates blame to offenders either through direct performance of a crime, or through complicity, or simply through any means the fiscal deems an offender guilty, that are a key feature in the *eijsch*.

The first offender Van den Henghel dealt with was Alexander van Bengal, a convict at the fort, who, whilst out collecting firewood in a chain gang of four, escaped his chains by breaking them with an axe.²²² Thereafter the convicts overpowered the guard under whose watch they were. Van den Henghel stopped here to say that it was Alexander's idea that they, besides stealing clothing and weapons from the soldier, should kill him. According to the evidence gathered the rest of the group protested against this and so the murder was never carried out²²³ – the intention to kill was,

²²¹ CA, CJ 19, pp. 1-7, 9-14; CJ 341, pp. 1-73.

²²² CA, CJ 341, pp. 1-2.

²²³ CA, CJ 341, pp. 3-4.

however, made key in the *eijsch* and in a way one feels that Van den Henghel observes an initial form of lenience towards the runaways that protested this murder (as one step towards possible absolution).

This is something Van den Henghel does throughout the *eijsch* – he notes details such as complicity to the actual crime, whose idea the criminal acts were and continually highlights acts of protest. They feature as the key ingredients as to how much blame can be placed on each individual, even when some of the crimes are considered group efforts in general.

This is not to say that Van den Henghel blindly assigned blame though, he made personal statements when he questioned the legitimacy of testimonies. At one point in the *eijsch*, based on Alexander's account of an incident where, after meeting up with the slave Barkat and proceeding to the farm of Juffrouw Ten Damme, Van den Henghel queried to what extent the testimony of the offender could rightly be used as a truthful account of events. In describing how he (Alexander) and Barkat stabbed a slave on the farm, tied him up and dragged him to the back of his lodgings, Alexander points out that Barkat was the main instigator. He then fingered Barkat as the ultimate murderer of the slave, when, after he made a noise, the slaves proceeded to strangle him to death with a rope. It was here that Van den Henghel stated that at the time of presenting his *eijsch*, Barkat was not yet captured. He wondered whether Alexander was reapportioning blame to lessen his own complicity.²²⁴ This shows that Van den Henghel was aware that testimonies should be viewed skeptically where evidence was one-sided, especially when the offender was not admitting personal guilt. His skepticism is taken further when he questioned whether Alexander could in fact have been the primary perpetrator in these crimes, although he had no evidence of this.

Later in the *eijsch* Van den Henghel made this notion of assignment of blame even more clear than anywhere else when he came to the offender Anna van Madagascar. It was in dealing with Anna's case that he first encountered the 'plot against the colony' wherein it was the intention of the *troep* to poison a water pump that supplied water to a large section of the town. Whereas before his *eijsch* centred primarily on the movements of the group and specifically on the crimes

²²⁴ CA, CJ 341, pp. 5-7.

of murder they were involved in, Van den Henghel now turned to allaying particular blame (based on the accused's own admission of guilt) for actions that could have had (and in the case of murders she admits to, did have) grave consequences in the colony.

Van den Henghel noted at least two murders Anna personally committed and a number of others that she was party to.²²⁵ In dealing with the foiled attempt at poisoning the water pump, Van den Henghel tried to uncover who the 'mastermind' was behind the plot. What he usually pointed out was whose idea something was and then proceeded with the sentiment that because of that role they were the most to blame, and therefore deserved harsher treatment. He therefore pointed out that it was her idea and that she led a group of runaway slaves towards town as they were planning to put rotten fish into the water supply. Van den Henghel pointed out that because of this she alone was responsible for the punishment she should receive.²²⁶ He went on to explain that due to her being the principal "*uijtvoerster, aenraedster, en bevelgeefster van al die gepleegde gruweldaeden*"²²⁷ she deserved not only the death penalty, but more specifically that she was to be punished with "*een wreede dood*"²²⁸. One sees that it was her personal role and level of involvement in the crime that lent specifically to the gravity of her punishment, despite the acting out of the crime being a group effort.

Another case that illustrates Van den Henghel's reliance on specific blame apportionment was with the slave Joseph van Mallabaar, the second accused in the *eijisch*. Joseph ran away from his owner around three years prior to being caught. In his case he was ordered by the leader of the gang, Leander, to head out with a sectioned of the group to the farm of Wynand Victor, where they were told to loot whatever valuables they could find. Joseph initially refused to follow Leander's orders and the fiscal notes his convictions accordingly. Leander however proceeded to try to strangle Joseph for his disobedience, at which point Joseph's "*bidden en smeeken... om hem in't leeven te laten*"²²⁹ saved his life and Leander left him alone to go with the group.

²²⁵ CA, CJ 341, pp. 27-9.

²²⁶ CA, CJ 341, p. 32.

²²⁷ CA, CJ 341, p. 33. "(the one who) carried out, advised upon and ordered all the gruesome deeds committed"

²²⁸ CA, CJ 341, p. 33. "a brutal/harsh death"

²²⁹ "Begging and pleading... to let him live". CA, CJ 341, p. 20.

Van den Henghel at that point made it clear that any notion of his convictions leading to lenience in his punishment should be ignored, given that he felt that if Joseph was truly against these orders he should simply have returned to his owner, but as he did not he was still liable for any and all blame of both him and the group. The fiscal pointed out that Joseph's "*vrees*" (fear) was no excuse for the atrocities he went on to commit, including multiple counts of robbery and murder.²³⁰ We see once again how blame is appropriated by action. Whilst intention is taken into account, it does not justify a lessening of punishment unless it led to a change in action.

This notion of one's actions determining one's direct liability is taken up again with the slave Dina van Rio de la Goa, who, after *drosting* for around 15 or 16 months was captured and brought before justice. What set Dina apart from her fellow *drosters* was the fact that she was pregnant at the time she came before the court. Van den Henghel dealt with this by assigning different blames on the mother and child. As the child was not guilty of any of the crimes in which its mother partook, he suggests "*dat de executieten haeren reguard, ... mag uijtgesteld blijven tot haere verlossing en herstelling*"²³¹, thereby sparing the life of an innocent party.

Aside from this, the case of Dina is also different from the rest as Van den Henghel admits early on in his assessment that she was not as responsible for, or as complicit in, the crimes that the rest of the group carried out, though he still assigns a harsh penalty to her and goes on to explain why.²³² In her initial encounter with the group a fight broke out between the slaves Jumath (Joumath) and Mars, resulting in the death of Mars. Mars's death was already dealt with earlier in the *eijsch* and Van den Henghel apportioned the blame primarily to the slave Jumath. He does mention that Jumath had not yet been captured so at that time blame was being placed on him by his companions, though it seemed most evidence pointed at him. The complicit slaves in his murder buried Mars alive after beating him to a near-dead state, with him climbing out of his grave on several occasions before succumbing to his fate.²³³

Where the fiscal's assessment of Dina's case took a turn for the worse (for her) was when he claimed that the whole event could ultimately be attributed as Dina's fault. He wrote that "*en*

²³⁰ CA, CJ 341, p. 21.

²³¹ "that the execution of her punishment... be postponed until (after the birth of her child)" CA, CJ 341, p. 37.

²³² CA, CJ 341, pp. 33-6.

²³³ CA, CJ 341, pp. 15-6.

schoon imand wel hun vermoord worden door oorsaek van Een vrouw, waerom sy vegten, en dat egter die vrouw aen de Moord onschuldig is, so moet men sulks ten respecte van deese gevange heel anders considereeren”²³⁴, stating that had she not run away from her owner in the first instance, she would not have been present to cause this fight and the murder would never have occurred. He also took note of her complicity in other crimes in general, pointing out that, were she not punished harshly she would be capable of committing future crimes in the colony and on these grounds sentenced her to death.²³⁵

This takes us on to yet another important aspect of the fiscal’s reasoning, that being the rationale for punishing. We have looked at the various reasons for punishment in general in the previous chapter and can now look at a specific case and investigate the fiscal’s own reasoning behind the punishments he hands out.

Van Den Henghel’s judgements

We have seen above that the level of complicity in the crime was the first reason for enlisting harsher punishment, but the nature of the crimes was also an important aspect in the judgements Van den Henghel recommended. This is especially evident when the crimes were ones he could judge based on his knowledge of applicable law. Notable among these was the crime of murder (and in this case he was able to attribute at least some level of participation by all the slaves accused here in the crime of murder) as the law available at the time laid out punishment for this crime very clearly. On this basis the fiscal had, at the least, a justification for the general type of punishments he could hand out (i.e. corporal, capital, reprimanding and so forth) and then it came to a matter of deciding on a fitting punishment within these categories (see chapter 4 for

²³⁴ “If someone is indeed murdered because of a woman, over whom he fought, (then) that woman is innocent of the murder, (though) in respect of the captured person spoken of here, one must consider (the situation) entirely differently” CA, CJ 341, p. 37.

²³⁵ CA, CJ 341, pp. 36-7.

more on these). It is this variation that allowed input by the fiscal, and then later by the council itself, depending on whether it agreed with the punishment or decided to alter it.

In dealing with the first accused, Alexander, Van den Henghel notes his crimes of public burglary, spolie and violence, referencing Van Leeuwen's *Rooms-Hollands-Regt*²³⁶ as well as a criminal ordinance of the court.²³⁷ He short-hand references one 'Groenen', presumably Groenewegen, and likely his work *Tratatus de Leginus*.²³⁸ For the further offences of armed *drosting* (*samenrotting*), theft from houses, arson and other gruesome misdeeds he directs attention to the same. He ends by stating that, according to Carel van Aller, in his *Generaale Regulen en Definitien van Beschreve Rechten*²³⁹ and Damhouder in his *Praxis Rerum Criminalium*²⁴⁰, the death penalty is to be observed for the crime of murder. He feels that the death penalty is to be observed even more harshly because the crime threatened the colony as a whole. From this point on, dealing with each individual, he simply noted the death sentence he was recommending, the law behind them being already discussed in the *eijsch*.

In doing so, the fiscal demonstrated his own thorough knowledge of the law as well as a personal resentment for the breaking thereof and so recommended harsh punishments – all the *drosters* in this case were sentenced to harsh death penalties, ranging from hanging and *ledebraken* to strangulation. All of the accused also received the added punishments of having their bodies displayed in public and some of them were also subject to what we have highlighted in earlier chapters as torturous punishments, such as having flesh torn from their bodies with hot iron tongs or having burning straw thrown in their faces.

²³⁶ CA, CJ 341, p. 12. "Rooms. Holl. Regt. 4 boek I/bit 38, no.3" The full title of Van Leeuwen's work is *Het Rooms-Hollands-regt, waar in de Roomse wetten met huydendaagse Neerlands regt, in alles dat tot de dagelijkse onderhouding kan dienen*

²³⁷ CA, CJ 341, p. 12. "en de Crimineel Ordonnantie op het stuk van de Justitie No 18"

²³⁸ CA, CJ 341, p. 12. *Tratatus de Leginus abrogates et inusitatus in Hollandia vicinisque regionibus*, translated as *Treatise on Roman Laws abrogated and in force in Holland and neighbouring countries*

²³⁹ CA, CJ 341, p. 13. "Generaale Defin, Van regt, fol. 362" see Van Aller, K. *Generaale Regulen en Definitien van Beschreve Rechten* (Dordrecht, 1761), pp. 361-2. (This is however the third edition and therefore later print). It explains that if a person is found guilty within reason, the death penalty is to be inflicted, with whichever degree of severity is decided upon based on the gravity of the crime.

²⁴⁰ CA, CJ 341, p.12-13. "Prac. Crim, Cap 36 and gail, lib2. Obs 110" see De Damhouder, J. *Praxis Rerum Criminalium* (Antwerp, 1562)

In the previous chapter we noted McLynn's argument for why crimes were punished, the first reason being to deter future crime. This was achieved either through exemplarity or simply through the removal of the person causing the problem. Van den Henghel clearly demonstrates this notion of deterrence as a driving force behind his punishments throughout the *eijsch*. In places he notes that the accused would go on to perform further crimes were they not removed from society altogether, and to this end he planned to eradicate them completely with their death sentences.

A good example of how he felt one of the accused would have gone on to create more problems in the colony concerned the slave Januarij van Bengalen. Januarij confessed to coming to town in order to retrieve supplies from the brother of one of the gang's members, Salamat, the brother of Jumath. Van den Henghel feared that Salamat would surely have been taken into the gang eventually and besides, simply aiding the gang was problematic enough. Van den Henghel stated that because of this possibility and for the possible 'evils' Januarij could commit in the colony, he should be put to death.²⁴¹ We have also noted above how he used this same reasoning to justify the heavy sentence he recommended for Dina, despite her lower level of complicity to the crimes she was charged with. The mere possibility of committing crime then, was justification for their deaths.

Coupled with the punishments meted out the fiscal also recommended that the transgressors be displayed publicly, yet another aspect of the role of punishment as deterrence. This was seen as a useful tool with which to instill fear in other would-be transgressors (and perhaps a message to those members of the gang who were, at that point, still at large, to show them the fate that awaited them), with the hopes that it would minimize future crime. Van den Henghel wrote that each of the offenders was to be taken to the gallows (some of them would still be alive, depending on their method of punishment) and to be displayed there, either alive on the wheel or to be rehanged, adding that they be "*aldaar so lang te blijven vertoeven, tot dat door de lugt en vogelen des heemels sullen zijn verteert*".²⁴²

²⁴¹ CA, CJ 341, p. 26.

²⁴² "(to be) displayed there until such time as (their bodies) are deteriorated by the air and birds of the heavens", CA, CJ 19, pp. 13-4.

As far as the retributive aspect of McLynn's three-pronged punishment reasoning goes, as discussed in the previous chapter, Van den Henghel was concerned with handing out punishments that fitted the crime. He felt that the death penalty was a deserved punishment – justified, firstly, through law, as well as through the very nature of the crime as one being against the colony and the individuals within it. Retribution, in this way, was claimed through the final penalty of death.

With one offender there was further retribution prior to sentencing. Johannes Kruijwagen, the former *burgerraad* (burgher councilor), was interested in acquiring information about Leander, Jumath and any other *drosters*. To this end he requested that Van den Henghel interrogate Januarij specifically in the hopes of ascertaining their whereabouts and further information.²⁴³ The fiscal offered a more lenient sentence to the prisoner should he come forward with any information about his companions. Januarij denied having any information, to the point where he even denied knowing Leander at all. Van den Henghel felt this to be a disconcerting effort and despite various threats and even beating Januarij (*“met drijgementen en ja selfs eenige slagen”*²⁴⁴), found the interrogation to be a fruitless task.²⁴⁵ Januarij's lack of cooperation led to his death (and one gets the feeling from the fiscal's tone of the frustration he created through his non-compliance).

Another important aspect not yet addressed in this chapter is the concept of the effect of religious tone within the *eijsch*. We have noted that religion came to be as important an aspect in the adjudication of crime as the available law and that biblical references were prominent from early on in the Cape's judicial functioning. We see this too in the period looked at here where the fiscals and *landdrosts* cited directly from the Bible to justify certain recommended punishments such as death, as well as the mode of punishment that the Bible suggests. Van den Henghel does not reference biblically in this particular *eijsch*, though his religious tone is prominent throughout. Throughout the *eijsch* he notes that the crimes the offenders performed were godless acts and at times he even notes godlessness as epithets for the offenders, such as noting one as a

²⁴³ CA, CJ 341, p. 24.

²⁴⁴ “with threats and, yes, even several blows” CA, CJ 341, p. 25.

²⁴⁵ CA, CJ 341, pp. 24-6.

“*goddeloose moordenares*”²⁴⁶ and a “*godelose hex*”.²⁴⁷ This indicates the fiscal’s disdain for the group’s trespasses as not only against the law, but specifically as amoral, irreligious acts.

Needer and the slave uprising of 1738

In 1738 a group of slaves ran away from their owner (ironically the same ‘*oud burgerraad*’, Johannes Kruijwagen, who was interested in attaining information on the *drosters* the year before) and proceeded with a short-lived, though intense rampage of the surrounding Cape area that resulted in a number of deaths of European burghers and caused another serious spate of alarm within the colony. Their case was brought before the Council in September of that year, in which 12 slaves were accused of murder, open unrest, armed revolt and a number of other crimes. Aside from the 12 directly accused for their acts of *drosting* and revolt, further complicit parties came before the court in the ensuing cases of slaves who were in communication with, or aided the gang that had caused so much distress in such a short period.

The 12 *drosters* were Alexander, Januarij, Meij and Pedro van Mallabaar; Arend, Leendert, Jacob and Moses van Boegis; David van Rio de la Goa, Datho and Pannaij van Boegis and one slave recorded simply as Nathan.²⁴⁸ A further three slaves were brought before the court the following month for their involvement with the gang. These were Fortuijn van Rio de la Goa²⁴⁹, Sabiel van Mallabaar²⁵⁰ and Cupido van Bengalen.²⁵¹

Key elements in this uprising were the relatively short period in which the gang was active (remembering that Leander’s gang survived a period of many years), the ferocity of the crimes committed (especially as they primarily targeted Europeans) as well as the larger size of the group and the level of concern they were able to create in the community.

²⁴⁶ “godless murderess” CA, CJ 341, p. 30.

²⁴⁷ “godless witch” CA, CJ 341, p. 33.

²⁴⁸ CA, CJ 20, pp. 101-5; CJ 342, pp. 217-64.

²⁴⁹ CA, CJ 20, pp. 106-10, 115-6, 121; CJ 342, pp. 290-312.

²⁵⁰ CA, CJ 20, pp. 116, 122-4; CJ 342, pp. 313-20.

²⁵¹ CA, CJ 20, pp. 117-8, 127-9; CJ 342, pp. 334-8.

A group of slaves, all owned by Johannes Kruijwagen, consisting of Meij, Fortuijn, Tamboer, Matthijs, Nathan, Damon and Pannaij ran away about a month prior to the unfolding of their crimes. Along the way they met up with the slaves of the burgher Andries Hesselbaart, namely Alexander, Lodewijk and Tomas whilst they (the initial group) were headed towards *Slange Hoek*, near the farm of Hercules Du Preez.²⁵² Tomas, the shepherd placed in the field by the *landbouwer* Louis Swart, headed out to retrieve some salt and bread for his new compatriots but was apprehended by Swart and taken to the nearby farm of Du Preez. Alexander, Januarij and Meij heard the screams of Tomas as he was being taken away and the group then decided that, come the cover of darkness, they would descend upon the house of Du Preez to rescue their new friend, kill Swart and Du Preez and any other Europeans in the house and go on a plundering spree.²⁵³

The group made contact with Du Preez' shepherd, informing him of their intentions. There was likely an exchange of information at this point regarding how best to go about this. That evening they approached the house and once near, advanced to the front door, so as to hear what was going on in the house. As they were doing so the door swung open and the *huijsvrouw* of Louis Swart came outside. Alexander stabbed her with his knife and she retreated back inside the house. With this Fortuijn let out a cry of "Amok!" and the group laid siege to the homestead. Upon entering they came upon Louis Swart and Hercules Du Preez and began assaulting them with knives, assegais and *kirries*. Swart died on the spot but Du Preez managed to escape his attackers, mounted a horse and took flight. He fell from the horse, dead, a short distance from his home.²⁵⁴

Needer wrote that, according to the slave Damon, Lodewijk "*misbruikt*"²⁵⁵ Du Preez' eldest daughter, along with Pannaij, before they killed her. Du Preez' youngest daughter was also in the house and, according to Alexander, Fortuijn also stabbed her before they began robbing the house. From the house they stole two *snaphaenen* (a type of rifle), a half horn of gunpowder, one

²⁵² CA, CJ 342, p. 218. One will notice that many of these slaves did not form part of the captured list that came before the court, one suspects that at that point these slaves were as yet uncaptured.

²⁵³ CA, CJ 342, pp. 218-9.

²⁵⁴ CA, CJ 342, pp. 218-9.

²⁵⁵ CA, CJ 342, p. 219. "misused" (assaulted, likely raped)

roll of tobacco and some linen and woollen clothes. They freed Tomas and headed back to the mountains.²⁵⁶

They stayed in the area for between one and three days before heading for the *Tygerbergen*, past the farm of Kruijwagen and on to the farm of the landbouwer, Pieter Blom, “*aan de berg revier gelegen*”²⁵⁷, where they proceeded to steal four sheep from the kraal, as well as five loaves of bread and some *meel* from the house. The *eijsch* also explains how, at this point, Datho separated from the group and whilst on her wanderings came across the farm of Jan Du Plesie, where she stole *meel* and salted meat. She slept there, later making her way to the *Tygerbergen* as well, presumably to rejoin her companions. She was however captured en route and delivered into the hands of justice. Alexander also separated from the group, made his way back to his owner’s farm and was subsequently apprehended there. The rest of the group made their way for the *Groene Cloof*, where they hoped to ransack a further farm of Johannes Kruijwagen and kill the *knecht* there.²⁵⁸

Fortunately for the *knecht* he was not there when they arrived at the farm. Januarij proceeded to break open a chest in the *knecht*’s quarters, stealing from it gunpowder, *kogels* (bullets), *vuursteen* (flint) and some tobacco. From there they headed to another ‘post’ of Kruijwagen’s, known as “*Smalle Pad*”, where they stole another *snaphaen*, gunpowder and some bread. The slaves then headed back out towards *Groene Cloof*, arriving at *Conte Berg* and then making their way for the *Tygerbergen* once more. In the meantime David van Rio de la Goa had separated from the group and was apprehended on one of Kruijwagen’s farms. Needer also mentioned that the slaves had stolen money in order to purchase *dagga*.²⁵⁹ The group was now armed with knives, assegais, kirries, rifles, as well as ammunition – they posed a serious threat for anyone who was unfortunate enough to cross their path.

²⁵⁶ CA, CJ 342, p. 219.

²⁵⁷ CA, CJ 342, p. 219. “situated on the berg river”

²⁵⁸ CA, CJ 342, pp. 219-20.

²⁵⁹ CA, CJ 342, p. 220. It is interesting how much information the slaves had of the whereabouts and possible contents of their master’s farms, suggesting they either came from working on different farms, or were moved between farms, allowing them a fairly intimate knowledge of the area and of the possessions within it.

Shortly thereafter, the group descended on the farm of one Andries Hesselbaart (the owner of the aforementioned Lodewijk, Tomas and Alexander), with weapons in hand. Hesselbaart and his family were having dinner at their table, with a guest, the burgher Frederick Zappel.²⁶⁰ Tomas attacked Hesselbaart, stabbing him under his left breast and delivering several other stabs. Zappel was shot in the face. The slaves robbed the house, stealing various items of food and wine as well as four sheep from the ‘*hok*’. They heard two shots being fired from the nearby farm of the widow Van Rooyen and took flight, heading once more for the shelter of the mountains.²⁶¹

Those that remained of the group were on another expedition to steal sheep when they noticed a European in the area, whom they assumed was searching for them. They were apprehended shortly thereafter by two Europeans who found numerous firearms, a loaded *snaphaen*, assegais, a *parang* (knife), kirries, gunpowder and lead on their persons. They were delivered into the hands of justice from there. Arend and Leendert van Boegis were captured on their master’s farm, whilst a further two of the accused were captured by a patrolling commando. The rest of the accused were rounded up shortly thereafter, though some of the responsible parties (such as Tomas) did not form part of the group brought before the council – their whereabouts at that stage were unknown.²⁶²

Needer’s punishment reasoning

In many ways Needer’s approach to presenting his *eijsch* was much the same as Van den Henghel’s, which is not surprising, considering the amount of time he spent as the latter’s understudy, having held the title of Adjunct-Fiscal since 1727. Needer was also concerned with what one may consider the minor details of the case, such as the movements of the group and individuals, the nature of items stolen at various points, the amount and types of weapons the gang carried as well as their intended actions, all key components noted in Van den Henghel’s work.

²⁶⁰ Or Frederick Sappel, the text is inconsistent with the spelling of his name.

²⁶¹ CA, CJ 342, pp. 220-1.

²⁶² CA, CJ 342, pp. 221-2.

Needer's *eijsch* also follows that of Van den Henghel in terms of much of the justification he gives for the punishments he recommends. When recommending the deserved death penalties he used the same judicial documentation, with Van Leeuwen, Van Aller and Damhouder as primary references.²⁶³ This was surely something the new fiscal had learnt from his predecessor. Despite there being a number of similarities in terms of what was included in the *eijsch*, there are still some differences in the procedural style of both fiscals, which will be looked at here.

It should, of course, be taken into account that the nature of the uprising in 1738, which involved direct murdering of Europeans in their homes, plundering of their farms, and various other deeds, was very different from that of 1737, where the crimes were perpetrated primarily against other slaves and where they extended over a number of years as opposed to the short space of between one and four months as was the case in 1738. One would expect Needer's *eijsch* to be different according to these circumstances. For the most part this is true, though somewhat different from what one may have expected.

Perhaps the most noticeable difference between the *eijshen* of Needer and Van den Henghel is the way that Needer approaches the crime as undertaken by the group as a whole, as opposed to acts performed by individuals within the group. Van den Henghel, on the other hand, although describing the crimes as predominantly performed in groups, held a primary focus on the acts of the individual and to this end he separated the *eijsch* into sections in which he investigated the individual in question, with the overarching knowledge of the group activities as a whole. Not so with Needer. His focus rests chiefly on the actions of the group, he mentions individuals for their complicity within the group and for their specific actions within each situation but never strays from the act as a group effort. For this reason his *eijsch* is considerably shorter despite the fact that he was dealing with a larger number of offenders. He keeps his work concise, notes the individual acts in a group context and thereby apportions blame to the group as a whole for individual acts (as not all were present at every event that he notes). To simplify matters he summarizes his apportioning of blame towards the end of the *eijsch* – noting the punishments he hands out to the group and then the specific reasons why each of the offenders deserves these

²⁶³ CA, CJ 342, p. 223.

punishments. What this does do is make the *eijsch* far more understandable – one would not have had to keep track of each individual and backtrack to previous events every time one encountered a new offender. Needer’s style seems to be a far simpler, to-the-point endeavour.²⁶⁴

Another difference is the way that Needer carried out a level of stringency not seen in Van den Henghel’s work by not only separating complicit offenders (who were not part of the *drosters*) but also punishing them quite harshly for their involvement, regardless of the level thereof. To this end he draws up separate *eijshen* for a number of accomplice offenders. Van den Henghel was aware of the involvement of certain slaves with the *droster* group but never seeks them out directly and to some extent even views their involvement as a product of the *drosters*’ influence and these accomplices were therefore not brought to trial. Salamat, the slave highlighted in Van den Henghel’s *eijsch* as the group’s contact in the town, for instance, is not brought before the court for his interactions with the group. Needer, however, brings another three slaves to trial regarding the case of the murdering *droster* gang.

The first of these offenders was the slave Fortuijn van Rio de la Goa, who was charged with being in correspondence with the troop of murderers, having given them information about the farm and its household, he being the slave of Hercules Du Preez. In his *eijsch* Needer suggested that Fortuijn be hanged and that his body be displayed at the gallows. Fortuijn however died during the ensuing interrogations as a result of the torture inflicted upon him, to force a confession from him. As a sign that no-one escapes the colony’s rule, regardless of whether dead or alive, his body was ordered to be hanged at the gallows by the legs.²⁶⁵ The slave Sabiel van Mallabaar, also the slave of the murdered burger Hercules Du Preez, was also charged with correspondence and cooperation with the *drosters* and sentenced to death by hanging as well as display at the gallows.²⁶⁶

A third slave, Cupido van Bengalen, was found guilty of having knowledge of the murderer’s intent and failing to warn either his owners or the *knecht* and for this the fiscal recommended that he be flogged, have his “*regter hakscheen afgesneeden*”²⁶⁷ and thereafter be sent back to his

²⁶⁴ CA, CJ 20, pp. 101-105.

²⁶⁵ CA, CJ 20, pp. 106-10, 115-6, 121; CJ 342, pp. 290-312.

²⁶⁶ CA, CJ 20, pp. 116, 122-4; CJ 342, pp. 313-20.

²⁶⁷ “right Achilles tendon (to be) cut”, CA, CJ 342, p. 338.

owner. Recommendations like these were rare in the decade and were not often followed through by the council as can be seen in chapter 2, though it is an indication of the gravity with which Needer considered these offences. The court decided to simply flog Cupido and sent him back to his owner.²⁶⁸

If these efforts of the fiscal to seek out every facet of complicity in this crime are an indication of the strict values he held and perhaps the agitation the *droster* gang caused him, his own words in the *eijsch* clearly testify to that. He states that the general disturbance of peace “and other evils” caused by the group, who roamed the Cape, armed at all times, initiated such a state of alarm and “*uijterste vrees*” (utter fear) throughout the colony for months and led members of the public to feel threatened and have a desire to be armed themselves, distracting and halting their work on the land and leading them to bring forth numerous complaints which he himself had to hear and attend to. For this reason alone he stated that he was compelled to recommend that the offenders be punished with “*Een Exempleire straff*”.²⁶⁹ We can see the mark of frustration at the acts of the *drosters* in the fiscal’s words.

Another important difference between Needer and Van den Henghel’s *eijsch* is the lack of acknowledgement on Needer’s part regarding possible reapportioning of blame. He does make it known that there are still members of the gang who were as yet uncaptured and that various members pointed out the guilt of other members. It may have been that, perhaps because the group as a whole was being made responsible for the crimes, these levels of individual complicity were not as important and so any reappropriation of blame was also not necessarily relevant. The only time Needer separated the individuals out in any way was in his summary.²⁷⁰

These account for the major differences in the work of the two fiscals and one can see how holding stricter lines, claiming group blame, the nature of the murders and the fiscal being personally frustrated by the crimes (or at least more so than usual) all had serious ramifications on the outcomes of the sentences.

²⁶⁸ CA, CJ 20, pp. 117-8, 127-9; CJ 342, pp. 334-8.

²⁶⁹ “one exemplary punishment”, CA, CJ 342, p. 224.

²⁷⁰ CA, CJ 342, pp. 217-64.

Needer recommended extreme punishments – Alexander, Januarij, Meij, Pannaij and Nathan were all sentenced to having their skin torn with hot iron tongs and then to be speared alive on stakes and left there to die. Pedro, Arend, Leendert and David also had their flesh torn and were then subjected to *ledebraken* with the *coup de grace* (although the fiscal recommended *ledebraken* without the *coup de grace*). The remaining offenders were hanged and all offenders were sentenced to display at the gallows.

Conclusion

From the outset we see both fiscals were concerned with apportioning necessary blame so as to recommend appropriate sentences. The tone of their writing shows the contempt they had for the *droster* groups and this could have played a part in the rigorous attempts they made at outlining the cases, proving blame and inflicting severe sentences. This is especially true for Johannes Needer, his sentences are atypical of the decade as a whole and form part of a general trend in the infliction of harsh, rare punishments in the time during which he was fiscal, proposing punishments that had not been used previously in the decade. This can be seen clearly by noting the years in which he was fiscal and the prevalence of particular punishments, as seen in chapter 2. It was pointed out there that one possibility for this increase in punishment could have been that the personal style of the fiscals and the lenience given to them in their decision making (despite being kept generally in check by available law and of course by the final decision of the court itself, though in these cases there was not much difference between them) could mean that their personal desire to inflict serious punishments allowed for subjectively driven differences.

This chapter has tried to explain how these personal ideas were made up, showing the justifications both fiscals gave in their *eijshen*, ranging from the level of complicity, the nature of the crime, the status of the offenders as well as those offended, the influence of religious perspective, available law, personal agitation as well as various other attributes, all adding up to a final decision on how to punish the transgressor.

Chapter 6

Conclusion and Suggestions

Each chapter in this dissertation ends with its own conclusion, summarizing the major findings within each of them and so it is not necessary to reiterate those findings in too much detail here other than to highlight some of them with regards to how they may be useful in pointing out suggestions for future research in similar fields.

In the opening chapter of this work it was held that the 1730s was an ideal period to investigate criminal procedures for a number of reasons, one of which being that it was a time in which the colony was relatively settled (in terms of numbers as well as the settling of laws in the period). One interesting avenue would be the investigation, in a similar manner as has been used in this dissertation, of different periods during the VOC's reign. The early period of colonization and settlement (the mid to late seventeenth century) would be particularly interesting, notably for the fact that very little would have been set down as standardized measures, especially relating the laws of the outposts as well as specific punishments to deal with offenders as one would have noticed by the later period of the 1730s. There would also have been different circumstances in terms of who meted out justice, a point that was made crucially important for the investigations contained in this dissertation, as well as a slightly different demographic within the colony, where noticeably smaller numbers of inhabitants would have been present. This of course would mean that caseloads would likely be significantly smaller for periods such as a decade, though the presumed lack of standardization may make for some complications.

Another period that could be of interest regarding crime and punishment in the colony is that of the later period of the Company's reign, specifically around the 1780s and 1790s where the Company itself was under serious pressure for its own survival. It is likely that administration in this period was somewhat chaotic and added to this the fact that the colony would also have had larger numbers of inhabitants and therefore larger caseloads, the period may be difficult to work with in terms of an analysis as has been done with the 1730s. The period should, nonetheless present interesting results. One thing that would be of particular interest would be to ascertain whether the Cape indeed began to mirror the trends we have noted abroad of enlisting more lenient sentences in the wake of European enlightenment. It was noted in this dissertation that throughout the 18th century European nation states were progressing away from severe punishments and towards systems of imprisonment and various methods of constructive punishment systems. It would be interesting to ascertain exactly to what extent the Cape followed suit (or, indeed, deviated from these trends).

All the information used to create the database and from which the trends in this dissertation were drawn relied on the use of the criminal records of the Council of Justice. There is another

important series of documents that may be as important when it comes to outlining some of the issues addressed in this work such as the nature of law and punishment, the designation of crime titles and the role of status in creating specific outcomes in sentences. This series of documents is the civil records of the Council of Justice. As mentioned in the introduction, the 1730s was the first decade in which the criminal and civil documentation were recorded separately. It would be interesting to see what trends could come out of a detailed investigation of these documents. This would also tie in with the sentiment of investigating an earlier period of VOC control as the criminal and civil records may have been intricately linked and one may have even found certain people appearing in each of these series, in which case it would be interesting to note their treatment in both cases.

This dissertation has tried to make evident the role of specific features in the outcome of sentences and throughout the investigative period. Most notable among these has been the issue of status and rank. There are however other features that may have played important roles in the way the criminal procedure played out that were not directly entertained in this work. One such feature would be the role that gender played, specifically when it came to the punishments meted out by the courts. Women did feature alongside men in this dissertation, especially where slaves were concerned and often different punishments could be seen, such as strangulation in place of hangings and *ledebraken*, though the exact nature of gender differences in punishment was not made critically important. There may have been direct consequences of the effect of gender, it would be an interesting avenue to follow.

Another feature which may prove useful but was just outside the scope of this dissertation is the nature of specific ethnicity and how this may have affected criminal procedures. For the most part ethnicity was avoided here to uncover the specific effects of rank and status, meaning the ethnic groups within each status were blanketed together to form part of more general groups based on societal position. At times there were hints, especially where slaves were concerned, that different ethnic groups may have been perceived differently and may have been treated differently by the courts. One hint of this is the way that at times slaves born at the Cape were treated differently to other slaves – in this case the ethnicity of the slave as perhaps a Madagascan as opposed to something else could have been influential in the outcomes of their

cases. Of course an investigation of this nature would have to make clear distinctions of what exactly constituted different ethnicities.

This could also apply in a similar way to soldiers and sailors, although not in terms of direct ethnicity but of a slightly different feature. Almost every man noted in the records from this group had his city of origin attached to his name as a type of marker. It would be interesting to test the hypothesis of any effect it may have had to belong to certain groups (for example, were soldiers from the Netherlands treated better than those from elsewhere?) as opposed to others.

These are merely a handful of suggestions that are hinted at throughout this dissertation. Hopefully they will be entertained in the future, though there could be plenty more ways that the information contained in this work could lend itself to further research.

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Note Regarding the 1730s Criminal Database:

This database was created for the purpose of extracting specific information for use in the dissertation. As such it forms more of a summary or note-based entry catalogue. One will notice asterisks and little notes I have left in the database. These were included to draw my attention to cases that were of specific interest to me or that highlighted particular trends I wanted to show in the dissertation. At times there are also simply notes on events or circumstances I found interesting in general. I have left all of these particulars in this completed version of the database so that anyone who reads it will be able to see exactly what piqued any sort of interest as well as have one or two notes on certain instances should they wish to investigate these further. At times one will also note where I may have highlighted a reference for myself, such as 'TB' (this usually refers to a text that I would have referred to in the actual dissertation, such as Teun Baartman's Cape Town Criminal Cases in this instance). The point being that a reader of this database needn't be hindered or influenced by the notes left throughout it, they are simply outtakes of my own volition.

University of Cape Town

CJ 12 & 334 (1730):

{12: Crimineele Regts Rolle des Casteels de Goede Hoop D Anno 1730; 334: Crim. Proc. Stukken Raad van Justitie}

!! Adriaen (Adriaan) van Kervel, interim fiscal!! {Opperkoopman, secunde, interim fiscal}

Name:	Moses van Batavia
Status:	<i>Leijfeijgen</i>
Crime:	Assault and Murder (<i>voorgenomen moord</i>)
Victim Details:	Alexander, Slave
Rec. Punishment (Fiscal):	To be hanged, with knife above his head (Lourens)
Actual Punishment (Court):	Flogged on bare back, branded, 2 years labour in chains
Post/Symbolic Punishment:	Branding
Reason/s for mitigation:	None given by court, though Moses claims he was provoked by Alexander, who beat him for no reason. He also claims that he did not intend killing him (Self-defence?).
Source (Vol; Pg; Date):	12 (1-3); 334 (1-15); [Th 5 Jan]

Name:	[1] Francois Franksz (van Amsterdam) [2] Carel Hendrik van Berkhuisen (van Hannover) [3] Jacob (N)ooteboom (van Seven Huysen) [4] Jan de Cok (van Antwerpen) [5] Jan Scheeping (van Amsterdam) [6] Abraham Manuels (van Amsterdam)
Status:	[1-4] <i>Soldaaten</i> [5] <i>Tamboer</i> (drummer) [6] <i>Mattroos</i>
Crime:	Absconding, vagabonding for 3 days
Victim Details:	-
Rec. Punishment (Fiscal):	To be flogged by the <i>mattroosen</i> , deported, 6 months company labour (voor niet?- without pay?)
Actual Punishment (Court):	3 months company labour [without pay?? – <i>Voor niet</i> (lenient)]
Post/Symbolic Punishment:	-

Reason/s for mitigation: **Van Kervel, in his eysch makes reference to a general 'scheeps placcaat' – no reference to the later mentionings of art 18 as v.d. Hengel often uses – appears there is no set punishment for this crime, or rather it is a different one to that used later, judging by the court's lenient treatment.

Source (Vol; Pg; Date): 12 (4-5); [Th 16 Feb]

Name: Jan van Alsbergen (van Amsterdam)
 Status: Quatermaster
 Crime: Absconding, *drosting*, vagabonding for 1 month
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging from *mattroosen*, 6 months without pay
 Actual Punishment (Court): As above, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 12 (6-7); [Th 16 Feb]

Name: Abraham de Haan
 Status: Burger
 Crime: Illegal trading with ships, trading before the 3 day waiting period had been reached [Smuggling]
 Victim Details: -
 Rec. Punishment (Fiscal): Fine of 40 Rixdollars (as per art 35 of generaal placcaat)
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 12 (8-10); [Th 23 Mar]

Name: Frederik Kruijsveld
 Status: *Bootsman*
 Crime: Drunken aggression towards superior (*Opperstuurman*) [Insubordination]
 Victim Details: -
 Rec. Punishment (Fiscal): Deportation and expulsion from company without pay.
 Actual Punishment (Court): Deported as *mattroos*, costs

Post/Symbolic Punishment: -
Reason/s for mitigation: -
Source (Vol; Pg; Date): 12 (11-13); 334 (18-33); [Th 30 Mar]

Th 6 April: Note on debacle between a group of Hottentots and the burgers Louw.

Name: [1] Huybert Jansz (van Amesfoort)
[2] Jan Baptist (van Brugge)
Status: [1] Quatermaster and Caretaker
[2] *Soldaat*
Crime: Absconding, *drosting*, vagabonding for
[1] 6-8 weeks
[2] 10-12 days
Victim Details: -
Rec. Punishment (Fiscal): Flogging by *Caffers*, company labour in chains for
[1] 3 years
[2] 18 months *more in line with v.d.Hengels use of art.18
Actual Punishment (Court): Flogged by *Caffers*, company labour for
[1] 18 months
[2] 12 months
Post/Symbolic Punishment: -
Reason/s for mitigation: -
Source (Vol; Pg; Date): 12 (17-18); [Th 11 May]

Name: Frederik Christiaansz (van Straelsond)
Status: Mattroos
Crime: Multiple thefts
Victim Details: Hospital patient; Miss ten Damme
Rec. Punishment (Fiscal): Flogging by *Caffers*, 5 years company labour
Actual Punishment (Court): As above
Post/Symbolic Punishment: -
Reason/s for mitigation: -
Source (Vol; Pg; Date): 12 (20-22); [Th 11 May]

Name: Schipio van Mallabaar
 Status: Leijfeijgen
 Crime: Illegal chopping and fetching of firewood on 'Wind Berg'
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 1 year company labour in chains ***In his eijsch (oral) the fiscal notes that the harsh treatment for this crime is done purposefully to make an example of Schipio, in the hopes that it will, firstly, prevent others from transgressing the same crime (illegal woodchopping) but also because it was a blatant dismissal of authority ["tot straffing van diergelyke moetwillige ongehoorsaamheijd en tot afschrik van andere..."]
 Actual Punishment (Court): As above, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 12 (23-24); [Th 11 May]

Name: Anthonie van den Abele (van Deventer)
 Status: Quatermaster
 Crime: (Verraderlyk) Assault
 Victim Details: Assaulted various *mattroosen*, wounding one Cornelis Jansz with a knife, as well as beating 2 *Caffers* who tried to restrain him and convince him to return to his ship.
 Rec. Punishment (Fiscal): Flogging by *Caffers* with knife above his head, thereafter to have a knife driven through his hand, nailing him to a pole**, 5 years company labour
 Actual Punishment (Court): Flogged by *Caffers*, 5 years company labour
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 12 (25-26); 334 (64-75); [Th 13 July]

Name: Arnoldus Carel van Bael
 Status: Soldaat
 Crime: Absconding, drosting, vagabonding for 2-3 weeks
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -

Reason/s for mitigation: -
 Source (Vol; Pg; Date): 12 (27-28); [Th 13 July]

Name: [1] Benjamin Evenroth (*English?)
 [2] Jan Erik Keyser
 Status: [1] Corporal
 [2] *Soldaat*
 Crime: Drunkennes on duty, neglect of duties, illegal activities on their posts
 Victim Details: -
 Rec. Punishment (Fiscal): -
 Actual Punishment (Court): [1] Deported as *soldaat*, run the gauntlet 3 times
 [2] Run the gauntlet twice
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 12 (29-33); [Th 27 July]

Name: [1] Harmanus van Loene (van Amsterdam)
 [2] Jacob Janszen Kerkmeijer (van Maarse)
 Status: [1] *Mattroos*
 [2] Jonge
 Crime: Absconding, *drosting*, vagabonding for a day
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by *Caffers*, 18 months company labour
 Actual Punishment (Court): Flogged by *mattroosen*, 3 months company labour without pay
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 12 (34-36); [Th 7 Sept]

Name: Anthonie van Bengalen
 Status: Leijfeijgen
 Crime: Theft, Burglary
 Victim Details: Barhand at “’t Laaste Stuijvertje”
 Rec. Punishment (Fiscal): To be hanged, thereafter to be dragged out of town to be displayed at gallows
 Actual Punishment (Court): Flogged on bare back, branded, 25 years company labour
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 12 (37-39); 334 (76-82); [Th 12 Oct]

Name: Januarij alias Tamboe van Boegis
 Status: Leijfeijgen
 Crime: Murder (of an absconded Company employee, Philip) – aided in the murder
 Victim Details: Philip, company employee (Smiths assistant)
 Rec. Punishment (Fiscal): Initial torture (first eijsch)
 Actual Punishment (Court): Initially torture (first court appearance)
 Post/Symbolic Punishment:
 Reason/s for mitigation:
 Source (Vol; Pg; Date): 12 (39-40,43); 334 (83-89); [Th 12 Oct]

Name: Jan Schuurman (van Hage in Brandenburgerland)
 Status: Soldaat, Karre Reyder
 Crime: Homicide
 Victim Details: Hendrik Wynn (Schuurman and another soldier had been arguing over money, which turned into a physical struggle. They knocked Wynn out of his bed, causing him to knock his head on a chest and begin bleeding, noone realized this had happened and Wynn died lying there)
 Rec. Punishment (Fiscal): Flogging by Caffers, 15 years company labour, banished from the Cape (15 years to be served outside the ‘district’)
 Actual Punishment (Court): Banished from the colony, case held ‘open’ in the event of further evidence (stronger evidence) surfacing
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 12 (41-42); 334 (90-110); [Th 12 Oct]

Name: [1] Lena van de Caab
 [2] Philander van Ceylon
 [3] Amil van Madagascar
 [4] Coesar (Cesar) van Madagascar
 [5] November van Samboue
 [6] Pieter van Mallabaar
 [7] September van Boegis
 [8] Christina van Madagascar
 [9] Alexander van Mallabaar
 [10] December van Balij
 [11] Januarij alias Tamboe van Boegis (see his case above)
 [12] Colon van Cheribon (Ceribon) [of Abraham de Haan]

Status: [1,3,5,7,8,9,11] Slaves
 [2,4,6,10,12] *Leijfeijgen* (used here almost one for one*)

Crime: Murder, Stock (cattle) theft, Burglary, Spolie (Assault),
 General crimes against the public

Victim Details: Many

Rec. Punishment (Fiscal): [2,3,10,12] *Ledebraken* with coup de grace, bodies placed
 on rad to be displayed t gallows
 [4,5,6] Hanging, bodies strung up for display at gallows
 [1,8] Tied to a pole and strangled to death, bodies strung up
 for display at gallows
 [7,9,11] To be displayed with noose round necks, Flogged
 on bare backs, branded
 [7,9] 3 years company labour in chains before being sent to
 owner
 [11] 10 years company labour in chains before being sent to
 owner

Actual Punishment (Court): [2,10,12] Bound on a cross, *Ledebraken* with *coup de*
grace, bodies dragged out to gallows and displayed on
 poles (rad)
 [3,5,6] Hanged, bodies dragged to gallows and strung up
 for display
 [1,4,7,8,9,11] Flogged on bare backs, branded
 [1,11] Company labour in chains for Life
 [4] 10 years company labour in chains
 [7,8,9] sent back to their respective owners

Post/Symbolic Punishment: bodies to be displayed

Reason/s for mitigation: -

Source (Vol; Pg; Date): 12 (44-50); 334 (111-261); [Th 9 Nov]

[END]

CJ 13; CJ 335 (1731):

{13: Crimineele Regts Rolle des Casteels de Goede Hoop Anno 1731; 335: Crim. Proc. Stukken Raad van Justitie}

!! Adriaen (Adriaan) van Kervel, interim fiscal!! {Opperkoopman, secunde, interim fiscal}

Name: [1] Pieter Hollebroek (van Maastricht/Maastricht)
 Status: [2] Catryn van Madagascar
 [1] *Bandiet* (Convict)
 [2] Slave
 Crime: Cattle Theft, housebreaking, robbery
 Victim Details: Francois Du Toit (*den oud Heemraad*)
 Rec. Punishment (Fiscal): [1] *Een Schaepe Vagt boven syn hooft* Hanged and body to be exposed at gallows
 [2] Paraded with noose around neck, flogging, branding, 5 years further labour for owner
 Actual Punishment (Court): Both paraded with noose around neck, flogged, branded plus
 [1] 25 years company labour
 [2] 5 years labour for owner
 Post/Symbolic Punishment: Noose around neck, branding
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 13 (1-4); 335 (1-27); [Th 11 Jan]

Name: Philander van de Cust Coromandel
 Status: *Leijfeijgen*
 Crime: Assault and premeditated murder (with Kierie and bayonet)
 Victim Details: Ernst Willem Vonk, *knegt*
 Rec. Punishment (Fiscal): *Ledebraken* on cross from the bottom up, without *coup de grace*, left there to die, thereafter exposed at the gallows
 Actual Punishment (Court): *Ledebraken* with *coup de grace*, thereafter exposed at gallows
 Post/Symbolic Punishment: Exposure
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 13 (4-6); 335 (28-40); [Th 11 Jan]

Name: Jacob Popta
 Status: *Onderstuurman*
 Crime: Disrespect and disobedience (against Commander of the ship, *Petronella Alida*) [Insub]
 Victim Details: -
 Rec. Punishment (Fiscal): To be reprimanded, to travel further without pay, and to be held under “arrest” on the voyage
 Actual Punishment (Court): As Above, with costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 13 (7-12); 335 (41-47); [Th 8 Feb]

Name: [1] Jacob van der Leij (van Pollinkhoove)
 [2] Willem Decker (van Mastrigt)
 [3] Pieter Vries (van Amsterdam)
 [4] Cornelis Pietersz (van Zinikzee)
 [5] Jan Coers van den Heuvel (van Rotterdam)
 Status: [1-4]: *Mattroosen*
 [5] *Soldaat*
 Crime: Absconding, *drosting*, vagabonding for:
 [1] ? days
 [2] 8 days
 [3] 9 d
 [4] 9 d
 [5] 4 d
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by *Caffers*, 18 months company labour
 Actual Punishment (Court): [1-4]: Flogged by *Caffers*, plus
 [1] 18 months company labour
 [2-4]: 6 months company labour
 [5]: Flogged by *mattroosen*
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 13 (13-16); [Th 8 Mar]

Name: Willem Cornelis Butting (van Amsterdam)
 Status: Quartermaster

Crime: {*Verraderlyk*} Assault (with a knife – though this is contested)
 Victim Details: Philip Beene, *mattroos*
 Rec. Punishment (Fiscal): Flogging by *Caffers*, 5 years company labour, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 13 (16-20); 335 (48-55); [Th 8 Mar]

Name: Jan Kruijskerk (van Rotterdam)
 Status: *Mattroos*
 Crime: Absconding, *drosting*, vagabonding
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by *Mattroosen*
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 13 (21-24); [Th 15 Mar]

{Daniel van den Hengel takes over as Fiscal}

[Note on page 25-8 on Christiaan Opperman and the abuse that led to the death of his slave)

Name: Francois Eduart (van Duijkerke)
 Status: *Mattroos*
 Crime: *attentaet van sodomie*
 Victim Details: ?Andries Hanszen, *Jongen*?
 Rec. Punishment (Fiscal): Life in chains and company labour, no pay as of time of ship's arrival
 Actual Punishment (Court): As above, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 13 (28-30); 335 (56-90); [Th 10 May]

Name: Jan van de Caab
 Status: Company slave
 Crime: Assault of fellow slave, who died thereafter (old case adjudged by van Kervel)
 Victim Details: Jacob, *Jongen*
 Rec. Punishment (Fiscal): To be released – evidence requires a new sentence, in that it does not point towards Jan van de Caab
 Actual Punishment (Court): Jan released from custody
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 13 (31-33), 335 (91-112); [Th 24 May]

Name: Godlieb Christiaan Opperman
 Status: Burger
 Crime: Assault of Slave (who subsequently died)
 Victim Details: Dam, Slave
 Rec. Punishment (Fiscal): “Syn Ooge geblint en met een bloot swaert over het hoofd geslagen te werden”, banishment to Robben Island, Assets and slaves to be confiscated (and kept away from his wife and children)
 Actual Punishment (Court): Fined 200 Rixdollars, costs*
 Post/Symbolic Punishment: -
 Reason/s for mitigation: Subsequent evidence disproved that Opperman was directly responsible for Dam’s death, though the case was still held in advice until more could be ascertained, Opperman was however released.
 Source (Vol; Pg; Date): 13 (25-28, 33-36, 39, 47, 58-66); 335 (154-325); [Wed 21 Nov]

Name: [1] Wander Immink (van Zutphen) *(Signs his name really well... p135/6)
 Status: [2] Dirk van Hatum (van Linden)
 Crime: [3] Christiaan van den Heijssel (van Oude Water)
 Victim Details: *Soldaaten*
 Anthonij Jansen, *Soldaet*

Rec. Punishment (Fiscal): Flogging, plus
 [1+2]: 12 years company labour
 [3] 6 years company labour
 Actual Punishment (Court): [1+2] Run the gauntlet 5 times
 [3] Run the gauntlet 3 times, plus
 [1-3] Deported as *mattroosen*
 Post/Symbolic Punishment:
 Reason/s for mitigation:
 Source (Vol; Pg; Date): 13 (37-38, 41-46); 335 (125-140); [Th 13 Sept]

Name: Jan Hendrik van Helsdingen
 Status: Burger
 Crime: Assault of slave (leading to death)
 Victim Details: Cupido, slave
 Rec. Punishment (Fiscal): Fine of 200 Rixdollars
 Actual Punishment (Court): Fined 50 Rixdollars, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: Cupido was adjudged to have died for reasons other than
 being flogged by van Helsdingen
 Source (Vol; Pg; Date): 13 (40-41); 335 (113-124); [Th 13 Sept]

Name: [1] Thomas Hop (van Dantzig)
 [2] Jurriaen Barlon (van Wys Was Ler???)
 Status: *Soldaaten*
 Crime: Absconding, *drosting*, vagabonding for
 [1] 6 months
 [2] 10 months
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by *Caffers*, 18 months company labour, 3 months
 pay, costs [see placcaat artikel 18...]
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: Interesting: Both claim "*onnoselheijd*" (stupidity) as their
 reasons for running away
 Source (Vol; Pg; Date): 13 (47-50); [Th 11 October]

Name: Pampie
 Status: *Toebehoorende*
 Crime: Sodomy (with a donkey)
 Victim Details: -
 Rec. Punishment (Fiscal): -
 Actual Punishment (Court): -
 Post/Symbolic Punishment: -
 Reason/s for mitigation: Pampie claims to have tied the animal up to feed him, but ran away after neglecting his duties, after which he was accused of the said act of sodomy. The court could find no evidence to refute his statements and removed him from detention.
 Source (Vol; Pg; Date): 13 (51-57); 335 (141-153); [Thurs 25 Oct] *See Klaas' signature...

Name: Pieter Pietersz (van Calmer)
 Status: *Bosschieter* (Seaman)
 Crime: Absconding, vagabonding
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging from *Caffers*, 6 months company labour
 Actual Punishment (Court): Flogged by *Mattroosen*, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 13 (66-67); [Thurs 22 Nov]

Name: Laurens [Lourens] Burmanije [Burmania] (van Loropsant)
 Status: [Loxopsant in Baartman] – signs his name well, pg 339
 Crime: *Soldaat*
 Violent Assault (with a knife) *took place at the home of Carel Didrik Buijtendag – a familiar figure, with his signature on pg 332 of CJ 335
 Victim Details: Jacob Smit, *Mattroos*; Claas Jacobs Bakker, *Mattroos*

Rec. Punishment (Fiscal): Flogging on bare back (*only sometimes included in the sentence), 5 years company labour
 Actual Punishment (Court): Flogged by *Caffers*, deported as *mattroos*, fined 3 months pay
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 13 (68); 335 (326-338); [Thurs 22 Nov]

Name: Christoffel Gesen (van Bursendorp)
 Status: *Adelborst*
 Crime: Theft (of personal goods from chest)
 Victim Details: Jan de Ruyter, *Mattroos*
 Rec. Punishment (Fiscal): Flogging by *Caffers*, 5 years company labour
 Actual Punishment (Court): Flogged by *mattroosen*
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 13 (69); 335 (339-342); [Thurs 22 Nov]

[Note on confiscation of tobacco- 22 Nov; then brought before the council that any amount of tobacco greater than thirty rolls discovered on any person will be confiscated – to be drawn up as a placcaat – 29 Nov]

Name: [1] Augustus Jurgen Mulder (van Erfort)
 [2] Jan Hendricksz (van Wiegen)
 Status: [1] *Metzelaer* (Mason)
 [2] *Mattroos*
 Crime: Absconding, drosting, vagabonding for 6 days ([1] claims to have absconded after the *baas metzelaer* [head mason] beat him)
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by *Caffers*, 6 months company labour
 Actual Punishment (Court): Flogged by *Caffers*, deported as *mattroosen*
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 13 (74-76); [Thurs 13 Dec]

Name:	Robbert Schot van Bengalen
Status:	Free Black
Crime:	Not treating his slaves correctly. [company regulation] – Schot wished to bring his slaves to the fiscal to be reprimanded and punished. What he then did was to bind them incorrectly (in “boejens”). The Fiscal looks to the Batavian Statute, article 6, which states the methods in which slaves are allowed to be bound and based on this makes the decision to confiscate the slaves from Schot – something we have not seen happen to any burghers or other slaveowners...
Victim Details:	Slaves
Rec. Punishment (Fiscal):	Confiscation of slaves
Actual Punishment (Court):	Court denies the <i>eijsch</i> and drops the case*
Post/Symbolic Punishment:	-
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	13 (77-78); 335 (343-345); [Thurs 27 Dec]

[END]

CJ 14; CJ 336 (1732):

Name: [1] Moses van Angola
 [2] Jurie van Trancquebaar
 [3] April van Maccassar
 [4] Jan Claas van de Caab
 [5] Joseph van Bengalen
 [6] April van Bengalen
 [7] Cupido van Bengalen
 [8] Cupido van Mallabaar

Status: [1] Slave
 [2-5]: Leijfeijgen (*though 2+3 noted as Slaves in 336)
 [7-8]: Slaves

Crime: *Aufugie*, drosting, theft, destruction of property, specifically:
 [1] *Doodslag* (murder), *Schape Diefte* (Sheep theft)
 [2] Premeditated murder, sheep theft
 [4] Premeditated murder
 [5-8]: *Aufugie, spolie en diefte*

Victim Details: Various burgers and *jongens*

Rec. Punishment (Fiscal): [1-4]: *Ledebraken* on cross and bodies to be displayed '*op een rad gestelt*'
 [5-8]: Hanging, bodies displayed at gallows

Actual Punishment (Court): [1,2,4]: '*Geledebraak sonder slag van gratie*' (*Ledebraken* without *coup de grace*), left there until death, dragged to gallows and displayed
 [3] Hanged, dragged to gallows and displayed
 [5-8]: Paraded with noose around the neck, flogged, branded
 [5-6]: 10 years labour
 [7-8]: 6 years labour

Post/Symbolic Punishment: Display, noose around necks, branding

Reason/s for mitigation: -

Source (Vol; Pg; Date): 14 (1-5); 336 (1-101); [Th 10 Jan]

Name: Jan Joosten (van Rotterdam)

Status: *Mattroos*

Crime: Faking illness, theft, abusive towards hospital staff [comp reg, theft]

Victim Details:	Various
Rec. Punishment (Fiscal):	Flogging by <i>Caffers</i> , 18 months company labour, 3 months pay
Actual Punishment (Court):	As above, costs
Post/Symbolic Punishment:	-
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	14 (6-8); [Th 7 Feb]

Name:	Jan van Ham (van Amsterdam)
Status:	Jongen/labourer on the shipyard
Crime:	Absconding, vagabonding for 14 days
Victim Details:	-
Rec. Punishment (Fiscal):	Flogging by <i>Caffers</i> , 18 months company labour, 3 months pay (*as per placcaat)
Actual Punishment (Court):	As above
Post/Symbolic Punishment:	-
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	14 (9-10); [Th 7 Feb]

Name:	Johan Hendrik Coster
Status:	<i>Soldaat</i>
Crime:	Killed a Hottentot whilst on a trading expedition [other, non-crime]
Victim Details:	Hans, Hottentot
Rec. Punishment (Fiscal):	Fiscal recommends the charges be dropped and the soldier released from custody as he believes the kill to have been made in defence of the accused soldier's fellow officers and cattle, which is what was rightly expected of him
Actual Punishment (Court):	Adjudicate Fiscal's recommendations
Post/Symbolic Punishment:	-
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	14 (11-17); 336 (102-111); [Th 7 Feb]

Name:	Bastiaan Matthysz (van Brussel)
Status:	<i>Soldaat</i>

Crime: Absconding, drosting, vagabonding for 4 months
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by *Caffers*, 18 months company labour, 3 months pay, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 14 (18-19); [Th 28 Feb]

Name: Jan Wollegast***
 Status: *Molenaar* (miller)
 Crime: Abuse of slaves (*one in particular was beaten badly and had salt rubbed in his wounds before being strung up by the wrists, but this matter is aside from the one he is brought forward for on this occasion, or rather amongst the crimes he is being tried for) [assault]
 Victim Details: David, Slave child
 Rec. Punishment (Fiscal): Fine of 50 Rixdollars, slave to be repossessed by the company
 Actual Punishment (Court): Fined 50 Rixdollars, slave to remain with Wollegast on condition it does not happen again
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 14 (20-22); 336 (112-119); [Th 27 Mar]

Name: Bartholomoeus Bilo (van Hamburg)
 Status: *Mattoos*
 Crime: Absconding, drosting, vagabonding for 3 years (*!)
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by *Caffers*, 3 years company labour, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 14 (22-24); [Th 27 Mar]

Name: Kluytje
 Status: Hottentot
 Crime: Sodomy (with a sheep)
 Victim Details: -
 Rec. Punishment (Fiscal): Taken out to sea and drowned, or whatever court sees fit
 Actual Punishment (Court): Taken out to sea and drowned
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 14 (25, 38-39); 336 (236-256); [Fri 30 May]

Name: Jan Crugel (Krugel)
 Status: Nephew of *Landbouwer*
 Crime: Beating and tormenting slave to death*
 Victim Details: Marten, slave
 Rec. Punishment (Fiscal): Case dropped on account of a lack of evidence
 Actual Punishment (Court): -
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 14 (26-27); [Th 24 Apr]

Name: Claas Lamye
 Status: *Bootsman*
 Crime: Disobedience and opposition to authority (of *Opperstuurman*)
 Victim Details: -
 Rec. Punishment (Fiscal): Suspension from Company, deportation to Netherlands
 Actual Punishment (Court): Banished to Netherlands, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -

Source (Vol; Pg; Date): 14 (28-29); 336 (120-130); [Th 24 Apr]

Name: Jan Crugel (Krugel) [see above, second case brought against him after investigation of the first]
 Status: Nephew of *Landbouwer*
 Crime: Abuse of slave (evidence showed he did beat the slave Marten, although in the above case it could not be shown that the beating led to Marten's death)
 Victim Details: Marten, slave
 Rec. Punishment (Fiscal): -
 Actual Punishment (Court): Fined 100 Rixdollars, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 14 (32-33); [Th 29 May]

Name: [1] Jacobus van Omme (van Nieuwkerk)
 [2] Roelof Hendriksz (van 't eyland Fume)
 Status: *Mattroosen*
 Crime: Absconding, vagabonding for
 [1] 14 days
 [2] 6 days
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by *Caffers*, 18 months company labour, 3 months pay, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 14 (33-36, 40-42); [Th 29 May, Fri 30 May]

Name: Roelof Hansen (van Hoedewal)

Status: *Mattroos*
 Crime: Theft
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging, branding, 10 years company labour, costs
 Actual Punishment (Court): Flogged by *Caffers*, 18 months company labour, costs**
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 14 (36-37); 336 (224-235)

Name: Arij de Groot
 Status: *Soldaat*
 Crime: Absconding, drosting, theft
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by *Caffers*, 18 months company labour, 3 months pay, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 14 (43-44); [Th 19 June]

Name: Reijnier Rijkers (van Amsterdam) *Good example of hanging with symbolic punishment*
 Status: *Mattroos*
 Crime: Murder, Assault (2 separate victims)
 Victim Details: Leonora van Rodestijn, Free Black (murdered); Pieter Rodestijn (stabbed)
 Rec. Punishment (Fiscal): Hanging, with knife displayed above head, body to be exposed *had he been a slave he may have been treated in a harsher manner than a 'simple' hanging*
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: Knife displayed above head, body exposed
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 14 (45-47); 336 (257-270); [Th 19 June]

Name: Cupido van Batavia
 Status: *Leijfeijgen*
 Crime: Sodomy (with a dog)
 Victim Details: -
 Rec. Punishment (Fiscal): Case dropped due to insufficient evidence (Cupido was found with the animal and suspected of sodomy though was not caught in the act or witnessed)
 Actual Punishment (Court): -
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 14(47-49); 336 (271-287); [Th 19 June]

Name: [1] Damon (David) van Rio de la Goa
 [2] Woeri (Foeri) van Rio de la Goa
 [3] Capitan van Rio de la Goa
 Status: [1] *Leijfeijgen*
 [2] *Slave*
 [3] *Toebehoorende*
 Crime: [1-2]: Murder (of 2 soldiers)
 [3] Accomplice (small role involving knowing about the murder)
 Victim Details: Two unnamed soldiers
 Rec. Punishment (Fiscal): [1-2]: *Ledebraken* (without *coup de grace*), bodies to be exposed
 See pp59-63, debacle about locking accused up in donker gat, tricking them to confess
 Actual Punishment (Court):
 Post/Symbolic Punishment:
 Reason/s for mitigation:
 Source (Vol; Pg; Date): 14(50-51, 59-63, 66-67); 336 (365-410)

Name: [1] Tontanko
 [2] Kifoe van Bouton
 [3] Oemar van Batavia
 [4] Janali van Maccassar
 Status: [1] Chinese

Crime: [2] Slave
 Victim Details: [3-4]: Company Slaves
 Theft, Housebreaking
 Rec. Punishment (Fiscal): -
 Actual Punishment (Court): Death by hanging, bodies exposed at gallows
 [1-2]: Hanged, bodies exposed***
 [3-4]: Appear with noose around neck, flogged, 15 years
 company labour
 Post/Symbolic Punishment: exposure on gallows, noose around neck
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 14 (51-54); 336 (288-307); [Th 10 July]

Name: [1] Arij Jansz (van Groeningen)
 Status: [2] Jan Grabo (van 's Gravenhage)
 [1] *Mattroos*
 [2] *Soldaat*
 Crime: Absconding, drosting for 6 weeks
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by *Caffers*, 18 months compny labour, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 14 (55-57); [Th 10 July]

Name: Titus van Madagascar
 Status: Slave
 Crime: Sheep theft
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging, 3 years labour
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 14 (58-59); 336 (308-312); [Th 31 July]

Name: Michiel Put (van Brack in 't Water Land)
 Status: *Mattroos*
 Crime: Absconding, vagabonding for 7 days
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by *Caffers*, 18 months company labour, 3 months pay, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 14 (64-65); [Th 4 Sept]

Name: Hendrik van Nias *severe penalty
 Status: Slave
 Crime: Violent assault and Rape
 Victim Details: Susanna Kuun, *Jonge dogter* (young girl) *Argument over moving cattle, Hendrik later attacked Susanna on her way home (through a forest?) and raped her, threatening further violence should she tell anyone
 Rec. Punishment (Fiscal): To be bound on a cross, right hand chopped off, *ledebraken* (without *coup de grace*), placed on a 'rad' until dead, body to be exposed at the gallows
 Actual Punishment (Court): As above, except for hand being chopped off
 Post/Symbolic Punishment: Exposure
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 14 (68-70); 336 (313-323); [Th 2 Oct]

Name: Pagalet van de Cust Coromandel
 Status: Slave
 Crime: Housebreaking, Murder

Victim Details:	Slave (of Landbouwer Gideon Joubert)
Rec. Punishment (Fiscal):	Ledebraken without coup de grace, placed on rad, murder weapon displayed above head, to be exposed at the gallows
Actual Punishment (Court):	As above, except for display of weapon
Post/Symbolic Punishment:	exposure of body
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	14 (70-72); 336 (324-332); [Th 2 Oct]

Name:	Anthonije van Bengalen
Status:	Slave (*of Jacob Bochem – see later entry)
Crime:	Assault
Victim Details:	Lena van Batavia, slave
Rec. Punishment (Fiscal):	Appear with noose around neck, flogging, branding, 20 years company labour
Actual Punishment (Court):	Flogged, branded, 20 years labour
Post/Symbolic Punishment:	branding
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	14 (73-74); 336 (333-342); [Th 16 Oct]

Name:	Mars van Boegis
Status:	Slave (of Jan Wollegast*)
Crime:	Trespassing, Threatening a burger [Insub]
Victim Details:	Jan Fredrik Bierman, Baker
Rec. Punishment (Fiscal):	Flogging by Caffers, 3 years labour
Actual Punishment (Court):	As above, costs
Post/Symbolic Punishment:	-
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	14 (74-75); 336 (343-351); [Th 16 Oct]

Name: Julije van Ceijlon
 Status: Leijfeijgen [Company Slave]
 Crime: Theft (in/from hospital)
 Victim Details: Hospital patient
 Rec. Punishment (Fiscal): Flogging by Caffers, 5 years company labour
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 14 (75-76); 336 (352-356); [Th 16 Oct]

Name: [1] Carel Bybraek (van Lebendal)
 Status: [2] Wiggert Jacobsz
 [1] Soldaat
 [2] Mattroos
 Crime: Drostring
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 3 years company labour, fine 3 months pay
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 14 (78-80); [Th 13 Nov]

Name: [1] Jan Daniel Helsinger (van Straatsburg)
 Status: [2] Andries Daalberg (van Gottenburg)
 [1] Soldaat
 [2] Mattroos
 Crime: Absconding, drostring, vagabonding for
 [1] 8 days
 [4] 4 days
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour, fine 3 months pay
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 14 (80-81); [Th 13 Nov]

Name: [1] Lourens Hendricksz (van Wessop)
 [2] Roelof Trump (van 's Gravenhage)
 [3] Jurgen Jurgensz (van Lierood)
 Status: [1] Quatermaster
 [2+3] Mattroosen
 Crime: Absconding, drosting, vagabonding for 9 days
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour, fine 3 months pay
 Actual Punishment (Court): Flogged by mattroosen, plus [1] sent back to ship*
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 14 (83-84); [Th 20 Nov]

Name: Cornelis Frank
 Status: Mattroos
 Crime: Absconding, Drosting, vagabonding for 19 days
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour, fine 3 months pay
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 14 (85-86); [Th 27 Nov]

Name: Jan Wollegast
 Status: 'Molenaar' (Miller)
 Crime: Assault on a slave
 Victim Details: female slave belonging to Wollegast
 Rec. Punishment (Fiscal): -

Actual Punishment (Court): Case dropped after the court judged Wollegast as having been temporarily insane. The post mortem also revealed that the slave died from a fever, not from the blow she sustained at Wollegast's hands (though one tends to wonder if this may have aggravated the situation?)

Post/Symbolic Punishment: -

Reason/s for mitigation: -

Source (Vol; Pg; Date): 14 (86-7), 336 (357-60); [Th 27 Nov]

Name: Art Knaap (van Ramsdonk)

Status: Mattroos

Crime: Threatening, Assault

Victim Details: Daniel Martensz, Mattroos

Rec. Punishment (Fiscal): Flogging by Mattroosen, fine 6 months pay

Actual Punishment (Court): Fined 6 months pay, costs

Post/Symbolic Punishment: -

Reason/s for mitigation: -

Source (Vol; Pg; Date): 14 (88-9), 336 (361-4); [Th 27 Nov]

Name: Evert Colijn

Status: Burger

Crime: Assault on a slave

Victim Details: November van Rio de la Goa, slave

Rec. Punishment (Fiscal): Fine of 200 Rxd

Actual Punishment (Court): Fined 50 Rxd

Post/Symbolic Punishment: -

Reason/s for mitigation: -

Source (Vol; Pg; Date): 14 (94-5), 336 (411-22); [Th 27 Nov]

Name: Fortuijn van Rio de la Goa

Status: Slave

Crime: Assault on Landbouwer

Victim Details: Pieter Andries Sax, Landbouwer

Rec. Punishment (Fiscal): Flogging, Brnding, 10 years company labour

Actual Punishment (Court):	Flogging, 5 years company labour
Post/Symbolic Punishment:	-
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	14 (95-7), 336 (423-440); [Th 27 Nov]

[END]

University of Cape Town

CJ 15; CJ 337 (1733):

Name: Pieter Jansen
 Status: Mattroos
 Crime: Theft
 Victim Details: Cornelis Beek, mattroos
 Rec. Punishment (Fiscal): Flogging by Caffers, 3 years company labour
 Actual Punishment (Court): Flogging, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (1-3); 337 (1-5); [Th, 5 Feb]

Name: Hendrik Coerse (van Coppenhage)
 Status: Mattroos
 Crime: Assault (Verpleegte Brutaliteiten)
 Victim Details: Slaves of the Fiscal
 Rec. Punishment (Fiscal): As the court sees fit
 Actual Punishment (Court): Flogging by Caffers, Banishment, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (3-5); 337 (6-8); [Th 5 Feb]

Name: [1] Philip van Bengalen
 [2] Coridon van Cambaij
 Status: Slaves
 Crime: Sodomy (with each other)
 Victim Details: -
 Rec. Punishment (Fiscal): [1] Banishing for Life to Robben Island, or whatever the court sees fit.
 [2] Gerelaxeert (mitigated), costs
 Actual Punishment (Court): [1] Loco Solito, Kinderlijke Castysing
 [2] Tegenwoordige Detentie
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (6-7); 337 (9-23); [Th, 19 Mar]

Name: [1] Jan Pietersz (van Rotterdam)
 [2] Douwe Toppesz (van Harlingen)
 [3] Jacob Claasz (van Groeningen)
 [4] Frans Harmensz (van Amsterdam)
 [5] Jan Grootemaat (van Alkmar)
 [6] Adriaen Ver Maire (van Caastel)
 Status: [1] Constapelsmaat
 [2] Soldaat
 [3] Mattroos
 [4] Jong Mattroos
 [5] Sail Maker
 [6] Soldaat
 Crime: Absconding, Drostring, Vagabonding for
 [1] 16 days(d)
 [2] 2 months(m)
 [3] 9 d
 [4] 8 d
 [5] 4 d
 [6] 3 d
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour, fine of 3 months pay
 Actual Punishment (Court): [1]+[2]: Flogging, 18m company labour, 3 months pay
 [3]+[4]: Flogging, 12m company labour, 3 months pay
 [5]+[6]: Flogging, 6m company labour, 3 months pay
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (8-10); [Th, 19 Mar]

Name: Frederik Frederiksz (van Berlin)
 Status: Convict (Bandiet)
 Crime: Sodomy
 Victim Details: Hospital bound jongens and mattrroosen
 Rec. Punishment (Fiscal): Company labour for Life, costs
 Actual Punishment (Court): 6 years company labour added to previous sentence, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (11-12); 337 (24-40); [Th, 2 Apr]

Name: Symon Van Orelie
 Status: Opperstuurman
 Crime: Unpermitted/Illegal punishing; mistreatment of labourers; assault (see CJ 337 for the evidence brought against Van Orelie, esp. p. 80 and the signatories against him) [Asslt, Comp Reg]
 Victim Details: -
 Rec. Punishment (Fiscal): Deportation, Banishment for Life, forfeiture of pay, relieved of company position, costs
 Actual Punishment (Court): as above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (12-13, 19-20, 21-23, 25-29); 337 (57-144); [Th, 2 Apr]

Name: Jurgen Hendrik Keijzer (van Hamburg)
 Status: Mattroos
 Crime: Assault
 Victim Details: Frans van der Stort, mattroos
 Rec. Punishment (Fiscal): Flogging by Caffers, Banishment to Robben Island for 3 years, costs
 Actual Punishment (Court): Flogging by Mattroosen, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (16-18); 337 (41-56); [Th, 16 Apr]

Name: Augustus Scheffelaar
 Status: Mattroos
 Crime: Murder/Manslaughter
 Victim Details: Arnoldus Verhoef, mattroos
 Rec. Punishment (Fiscal): Hanging, possessions to cover costs
 Actual Punishment (Court): Banishment for life, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: Court could not prove beyond a doubt that Scheffelaar was indeed guilty but the evidence pointed in that direction and therefore warranted a conviction, though not a death penalty.
 Source (Vol; Pg; Date): 15 (14-15, 18-19, 24-25, 33-34, 44-46); 337 (197-214); [Th, 11 Jun]

Name: Anna van der Weij*
 Status: Burgeresse
 Crime: Assault with murderous intent (Gepieegde geweld, moordagtige quetsinge)
 Victim Details: Frederik Brand, soldaat
 Rec. Punishment (Fiscal): 2 months in 'donker gat' on diet of bread and water, a fine of 400 Rix dollars, pain costs of Brand
 Actual Punishment (Court): fined 300 Rix dollars, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: Van der Weij claims she was attacked first. Fiscal disagrees based on the evidence collected. The court, in their conclusion, nonetheless claim to have taken both the testimony of the defendant as well as the available evidence into account when making a decision
 Source (Vol; Pg; Date): 15 (30-32); 337 (145-160); [Th, 7 May]

Name: [1] Adriaen Jansen Hylweg (van Amsterdam)
 Status: [2] Doede Fykes Mos (van Harlingen)
 Crime: [1] Soldaat
 [2] Mattroos
 Absconding, drosting, vagabonding for
 [1] 2 months
 [2] 6 days
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour, fined 3 months pay
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (34-36); [Th, 21 May]

Name: [1] Jacob van Madagascar
 [2] Anthonij van Madagascar
 [3] Claas van Madagascar
 [4] Adam van Madagascar
 [5] Hanibal van Mallabaar
 [6] Coridon van Mallabaar
 Status: [1] Slave
 [2] Leijfeijgen

[3] Leijfeijgen
 [4] Toebeoorende
 [5] Slave
 [6] Slave
 Crime: Theft and damage to property/goods
 Victim Details: -
 Rec. Punishment (Fiscal): [1]+[2]: To appear with noose around the neck (Strop om den hals), flogging, branding, 10 years labour
 [3]-[6]: Flogging, 5 years labour
 Actual Punishment (Court): [1]+[2]: Flogged, branded, 5 years labour
 [3]-[6]: Flogged, 3 years labour
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (36-39); 337 (161-184); [Th, 21 May]

Name: Abraham de Bois (van Leijden)
 Status: Schieman
 Crime: Assault, Verbal abuse
 Victim Details: General public
 Rec. Punishment (Fiscal): Banishment from colony, fine of pay for time of absence from his ship, or whatever the court sees fit
 Actual Punishment (Court): Banished from colony, fined pay for absence
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (40-43); 337 (185-197); [Fri, 22 May]

Name: [1] Galant van Maccassar
 [2] Anthonij van Maccassar
 Status: [1] Slave of free black (Willem Stolts)
 [2] Leijfeijgen
 Crime: Drosting, vagabonding, theft and possible plotting of armed robbery/attack
 Victim Details: (possibly) Jacob van Bochem, burger
 Rec. Punishment (Fiscal): Flogging by Caffers, plus
 [1] 5 years labour
 [2] 3 years labour
 Actual Punishment (Court): Flogged by Caffers, plus
 [1] 3 years labour and sent back to owner
 [2] sent back to owner
 Post/Symbolic Punishment: -

Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (46-49); 337 (215-228); [Th, 11 June]

Name: [1] Alexander van Bengalen
 [2] Rebecca van Mallabaar
 Status: Slaves
 Crime: Drostring, runaways
 Victim Details: -
 Rec. Punishment (Fiscal): -
 Actual Punishment (Court): Case dropped as court could find nothing criminal to bring against the slaves
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (50-51)

Name: [1] Pieter Keet (van Wijtenhaen)
 [2] Jan Swaen (van Dussledorp)
 Status: Soldaeten
 Crime: Absconding, drostring for 12 days
 Victim Details: -
 Rec. Punishment (Fiscal): Run the gauntlet 3 times (deur spitsroeden te loop), demoted to mattrroosen.
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (51-52); [Th, 18 June]

Name: Hans Jurgen Rauwes (van Brandenburg)
 Status: Soldaet
 Crime: Absconding, drostring for 8 days
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour, fined 3 months pay
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (52-54); [Th, 18 June]

Name: Maarten Broe(r)sman
 Status: Mattroos
 Crime: Suspected Murder
 Victim Details: Jacob Voquaerd, mattrroos
 Rec. Punishment (Fiscal): -
 Actual Punishment (Court): Released from custody to be deported to Netherlands at first available opportunity.
 Post/Symbolic Punishment: -
 Reason/s for mitigation: Case had been tried in China already and the court could find nothing further to add to the investigation.
 Source (Vol; Pg; Date): 15 (54-57); 337 (233-238); [Th, 18 June]

Name: [1] Angtanko
 Status: [2] Swatouan
 Crime: Chinese
 Crime: Theft and receiving stolen goods
 Victim Details: Christiaen Rabe, burger
 Rec. Punishment (Fiscal): Flogging, branding, 10 years company labour
 Actual Punishment (Court): [1] Flogged, branded, 10 years labour
 [2] Flogged, 10 years labour
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (58-60); 337 (239-247); [Th, 25 June]

Name: Maij van Couchin
 Status: Slave
 Crime: Suspected horse theft
 Victim Details: -
 Rec. Punishment (Fiscal): -
 Actual Punishment (Court): To be kept at the fort
 Post/Symbolic Punishment: -
 Reason/s for mitigation: Insufficient evidence to prove Maij's guilt or innocence, therefore to be kept in custody (likely working labour) until such evidence appears
 Source (Vol; Pg; Date): 15 (61-67); 337 (248-251); [Th, 30 July]

Name: Jan Christoffel Resdorf
 Status: Corporal at Castle
 Crime: Drunk whilst on duty
 Victim Details: -
 Rec. Punishment (Fiscal): Deportation as soldaet on next available ship
 Actual Punishment (Court): Fined 2 months pay and to {.....}
 Post/Symbolic Punishment: -
 Reason/s for mitigation: Defendant asked to be treated leniently and promised it would never happen again
 Source (Vol; Pg; Date): 15 (68-70); [Th, 6 Aug]

Name: [1] Joost Sonnius (van Ronsvaen)
 [2] Marten Jacobsz (van Hertogenbosch)
 [3] Jan Marechal (van Besancon)
 Status: Soldaeten
 Crime: Drunkenness and Assault
 Victim Details: August Phillip Remmers, Corporal
 Rec. Punishment (Fiscal): Run the gauntlet 3 times, Banishment to 'Judia'
 Actual Punishment (Court): Flogging, Banishment
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (70-72); 337 (252-268); [Th, 6 Aug]

Name: Anthonij van den Abele (van Deventer)* Signs his own name*
 Status: Convict at Fort (previously a Quartermaster – *see case of 13 July 1730)
 Crime: Assault (stabbing)
 Victim Details: Rachel van de Vijf, Free Black
 Rec. Punishment (Fiscal): To appear with a noose round the neck and knife above head. Flogging, branding, 10 years company labour
 Actual Punishment (Court): as above (added to previous sentence of 5 years company labour)
 Post/Symbolic Punishment: Noose round the neck, Knife above head
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (73-75); 337 (269-284); [Th, 20 Aug]

Name: Gerrit Coetse Jacobsz
 Status: Burger**
 Crime: Sodomy (with a horse)
 Victim Details: -
 Rec. Punishment (Fiscal): To be taken out to sea and thrown overboard to drown, or whatever the court sees fit.
 Actual Punishment (Court): Taken out to sea and drowned, costs, horse is killed as well
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (76, 80-83, 84-87); 337 (300-335); [Th, 10 Sept]

Name: Jochem Martensz (van Mecklenburg)
 Status: Corporal
 Crime: Assault
 Victim Details: Jan Felyn, soldaat
 Rec. Punishment (Fiscal): Deportation without pay
 Actual Punishment (Court): Fined 3months pay, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (77); 337 (285-292); [Th., 10 Sept]

Name: Frans Anthonij Ulk (van Donawaert)
 Status: Soldaat
 Crime: Absconding, drosting, vagabonding for 14 days
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour
 Actual Punishment (Court): As above, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (78); [Th, 10 Sept]

Name: Johan Frederik Muller
 Status: Knegt
 Crime: Hunting Accident. Accidentally Shot a burger in the leg, from which wound he died [Other, non crime]

Victim Details: Jacobus Loentjies, burger
 Rec. Punishment (Fiscal): -
 Actual Punishment (Court): Case dropped on account of court's decision that the death was caused accidentally
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (79); 337 (293-299); [Th, 10 Sept]

Name: [1] Gijsbert Gijsbertsz
 [2] Andries Neerings (van Gallemande)
 [3] Jan Habekoek (van Groot Seris)
 Status: [1] Timmerman
 [2]+[3]: Mattroosen
 Crime: Absconding, drosting, vagabonding for
 [1] 6 days
 [2] 10 d
 [3] 5 d
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour, fine of 3 months pay
 Actual Punishment (Court): Flogged by Caffers, 3 months pay
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (88-90); [Th, 1 Oct]

Name: [1] Cornelis van de Caab
 [2] Chioeahoeko
 [3] Sautiko
 Status: [1] Slave
 [2]+[3]: Chinese
 Crime: Theft and receiving stolen goods
 Victim Details: Michiel Pens, Assistant
 Rec. Punishment (Fiscal): [1]+[2]: Flogging, 5 years labour, costs
 [3]: Flogging by Caffers, costs
 Actual Punishment (Court): [1]-[3]: Flogging, 5 years labour, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (93-95); 337 (350-361); [Th, 5 Nov]

Name: [1] Hans Pietersz (van Hoesum)
 [2] Andries Neerings (van Gallemande)
 [3] Christaen de Priem (van Brussel)

Status: Mattroossen

Crime: Absconding, Drostring for
 [1] 14 years*
 [2] not given
 [3] not given

Victim Details: -

Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour, fine of 3 months pay, costs

Actual Punishment (Court): [1]+[2]: As above
 [3] Flogging by mattrroosen, costs

Post/Symbolic Punishment: -

Reason/s for mitigation: -

Source (Vol; Pg; Date): 15 (96-98); [Th, 3 Dec]

Name: [1] Jan Philip van Benke (van Uy[s]tregt)
 [2] Johannes Braamer (van Vrieseveen)
 [3] Hendrik Dirksz Felfgouw (van [B]lyswyk)

Status: Mattroosen

Crime: Absconding, drostring, vagabonding for
 [1] 9 months
 [2] 9 days
 [3] 9 d

Victim Details: -

Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour, fine of 3 months pay

Actual Punishment (Court): [1] Flogging by Caffers, 3 years company labour, 3 months pay, costs
 [2]+[3]: Flogging by Caffers, 18 months company labour, 3 months pay, costs

Post/Symbolic Punishment: -

Reason/s for mitigation: -

Source (Vol; Pg; Date): 15 (99-101); [Th, 3 Dec]

Name: Hendrik Thomas Bredenbag (van Elser)
 Status: Soldaat
 Crime: Absconding, drosting, vagabonding for 6 weeks
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour, fine of 3 months pay, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (102-103); [Th, 10 Dec]

Name: [1] Jacob van Bochem
 Status: [2] Jacob Sweitzer
 [1] Burger
 [2] Corporal
 Crime: Abuse of slave leading to death
 Victim Details: See later entry for further details
 Rec. Punishment (Fiscal): -
 Actual Punishment (Court): -
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (105-6); [Th 17 Dec]

Name: Frans Maureguard (aka Frans Morger)
 Status: Mattroos
 Crime: Theft (in hospital)
 Victim Details: Lourens, patient at hospital
 Rec. Punishment (Fiscal): Flogging, 3 years company labour
 Actual Punishment (Court): Flogging by Caffers in hospital, 3 years company labour, costs
 Post/Symbolic Punishment: Flogged in the hospital (likely as an example to others)
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (106-107); 337 (362-365); [Th 17 Dec]

Name: Jochem Heulik
 Status: Mattroos
 Crime: Theft/Robbery
 Victim Details: Fellow mattroos
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour, costs
 Actual Punishment (Court): Flogging by Caffers, 3 years company labour*, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (108-109); [Th, 24 Dec]

Name: Christiaan Coutts (van Halberstad)
 Status: Onderbaas
 Crime: Absconding, spanceeren for 4 days
 Victim Details: -
 Rec. Punishment (Fiscal): Deportation as a soldaat
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (109-110); [Th, 24 Dec]

Name: Pieter Burrie
 Status: Burger
 Crime: Anti-social behaviour [Other]
 Victim Details: General public
 Rec. Punishment (Fiscal): Banishment
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (112); 337 (372-375); [Th, Dec 31]

Name:	Jan Jansz (van Schiedam)
Status:	Mattroos
Crime:	Robbery/Theft
Victim Details:	Cornelis van der Heijden, mattroos
Rec. Punishment (Fiscal):	Flogging by Caffers, 3 years company labour
Actual Punishment (Court):	As above
Post/Symbolic Punishment:	-
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	15 (113); 337 (376-386)

[END]

University of Cape Town

CJ 16; CJ338 (1734):

Name: [1] Jacob van Bochem
 [2] Jacob Sweitzer
 Status: [1] Burger
 [2] Corporal at Groenekloof
 Crime: Abuse of slave (who died therefrom)**
 Victim Details: Marcus, slave
 Rec. Punishment (Fiscal): [1] Pay slaveowner 1000 Rixdollars
 [2] Banishment for Life, to be sent on next available ship to the Netherlands
 Actual Punishment (Court): [1] Fined 400 Rixdollars*
 [2] Banished, deported
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 16 (1-3, 13-19); 338 (39-117); [11 Mar]

Name: Jan Meyer (van Hamburg)
 Status: *Mattroos*
 Crime: Absconding, drosting, vagabonding for 5 weeks
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by *Caffers*, 18 months company labour
 Actual Punishment (Court): Flogged by *mattroosen**
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 16 (3-5); [14 Jan]

Name: [1] Jacob Mever (van Nieuwerk)
 [2] Jetse Hes (aka Hetse Abis)
 Status: *Mattroosen*
 Crime: Destruction of property and {publique straet schenderye} (Public disturbance)
 Victim Details: -
 Rec. Punishment (Fiscal): Hanging, display bodies at gallows* (harsh)
 Actual Punishment (Court): To appear with nooses round the neck, flogged, branded, 10 years company labour

Post/Symbolic Punishment: Noose round the neck, on display
Reason/s for mitigation: Asked to be treated leniently
Source (Vol; Pg; Date): 16 (6-8); 338 (1-27); [Th, 11 Feb]

Name: Joumath van Ternaten
Status: *Leijfeijgen*
Crime: Sodomy (with a dog)
Victim Details: -
Rec. Punishment (Fiscal): To be taken out to sea and drowned, or whatever the court sees fit
Actual Punishment (Court): Taken out to sea and drowned
Post/Symbolic Punishment: -
Reason/s for mitigation: -
Source (Vol; Pg; Date): 16 (9-12); 338 (28-39); [Th, 18 Feb]

Name: Cornelis Roelofsz
Status: *Koksmaat* (Galley boy)
Crime: Absconding, drosting, vagabonding for 14 days
Victim Details: -
Rec. Punishment (Fiscal): Flogging by *Caffers*, 18 month company labour, fine of 3 months pay
Actual Punishment (Court): Banished as *mattroos*, whipped by *mattroosen**
Post/Symbolic Punishment: -
Reason/s for mitigation: -
Source (Vol; Pg; Date): 16 (20-22)

Name: Augustinus Coebergen
Status: Burger
Crime: not mentioned
Victim Details:
Rec. Punishment (Fiscal):
Actual Punishment (Court):
Post/Symbolic Punishment:
Reason/s for mitigation: Being called before court but yet to respond.
Source (Vol; Pg; Date): 16 (23-25)

Name: Jan Phillip Styf (van Hamburg)
 Status: *Slootemaker* (Smith)
 Crime: Opposition to authority, disobedience
 Victim Details: -
 Rec. Punishment (Fiscal): -
 Actual Punishment (Court): Banished as *soldaat*
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 16 (25-27)

Name: Gerrit Wijngaard (van Pelts)
 Status: *Metselaar*?
 Crime: Absconding, drosting, vagabonding for 8 days
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour, fine of 3 months pay
 Actual Punishment (Court): Flogged by *mattroosen**
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 16 (27-29)

{Christoffel Brand + Frederick Russouw appear before the court to give testament}

Name: Petrus Adolphus de Bertrie**
 Status: Commander of *soldaten* on the ship *Loosdrecht*
 Crime: Drunk and disorderly, breaking curfew[comp reg], assault of *ratelwacht* (night watchmen)
 Victim Details: [1] Hendrik van Hooven
 [2] Otto van Graen,
Ratelwacht
 Rec. Punishment (Fiscal): Fine of 100 Rixdollars, pain costs of injured *ratelwacht*
 Actual Punishment (Court): Fined 100 Rixdollars, 30 Rixdollars pain costs*
 Post/Symbolic Punishment: -
 Reason/s for mitigation: Claimed he was too drunk to know what he was doing and that he does not remember the incident
 Source (Vol; Pg; Date): 16 (36-37); 338 (118-124)

Name: Christiaan Janszen (van Charlois)
 Status: *Mattroos*
 Crime: Absconding, *drosting*, vagabonding for 7 weeks
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by *Caffers*, 18 months company labour
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 16 (39-40)

Name: [1] Willem Risooij (van Enkhuijsen)
 [2] Jan Hendrik Hames (van Campen)
 [3] Samuel Crause (van Otrum)
 [4] Jan Gerritz Bronkhorst (van Amsterdam)
 Status: [1] *Mattroos*
 [2] *Mattroos*
 [3] *Soldaat*
 [4] *Mattroos*
 Crime: Theft (from hospital)
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by *Caffers* (in hospital) +
 [1]-[3]: 18 months company labour
 Actual Punishment (Court): As Above
 Post/Symbolic Punishment: Flogged in hospital as example to others
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 16 (40-42); 338 (125-131)

Name: Jan Garde
 Status: *Landbouwer*
 Crime: Accused of murdering a slave child
 Victim Details: Slave Child
 Rec. Punishment (Fiscal): Called to appear before court but Garde does not cooperate
 Actual Punishment (Court): Fined 25 Rixdollars for insolence* (other charges are
 dropped on account of further evidence – see following
 entry)
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -

Source (Vol; Pg; Date): 16 (43-51); 338 (186-197)

Name: Leys
 Status: Slave
 Crime: Accomplice to murder (see above)
 Victim Details: Slave Child
 Rec. Punishment (Fiscal): [????](#)
 Actual Punishment (Court):
 Post/Symbolic Punishment:
 Reason/s for mitigation:
 Source (Vol; Pg; Date): 16 (43-51); 338 (134-139)

Name: Jan Meijn
 Status: Burger
 Crime: Murder/Manslaughter
 Victim Details: Jan Sprangel, burger
 Rec. Punishment (Fiscal): Forthcoming
 Actual Punishment (Court): Meijn ran away, to appear before the court when found (the court makes several calls for his appearance)
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 16 (52-58, 68-73); 338 (198-236)

Name: Jan van Rossum
 Status: *Soldaat*
 Crime: Assault (stabbing)
 Victim Details: Joris Harpe, *mattroos*
 Rec. Punishment (Fiscal): Flogging by *Caffers*, 5 years company labour
 Actual Punishment (Court): Banished as *mattroos*, Flogged by *Caffers*, fined 3 months pay* (harsher than recommendation)
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 16 (58-59); 338 (148-163)

Name: Kindsa van Madagascar
 Status: Company Slave

Crime: *Droosting*, sheep theft
 Victim Details: -
 Rec. Punishment (Fiscal): Hanging, expose body on gallows* (harsh)
 Actual Punishment (Court): Appear with noose round neck, flogged, branded, 20 years company labour*
 Post/Symbolic Punishment: Noose round neck, branded
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 16 (60-61); 338 (164-168)

{Peter Valk appears in note regarding sodomy}

Name: Hendrik Willem Peperling
 Status: *Soldaat, Houtkapper* (
 Crime: Premeditated assault (stabbing)
 Victim Details: Jurgen Harmense Scholts, *mattroos*
 Rec. Punishment (Fiscal): To appear with knife above head, flogged, branding, 6 years company labour
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: Knife above head, branded
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 16 (66-68); 338 (170-185)

[END]

CJ17; CJ 339 (1735):

Name: Christoffel Kool
 Status: Corporal at Castle
 Crime: Drunk and disorderly
 Victim Details: -
 Rec. Punishment (Fiscal): Demotion to *mattroos*
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 17 (1-2); 339 (1-2); [6 Jan]

Name: Claas Fassoldt (aka Claas van Zol)
 Status: *Bootsman* (Ordinary Seaman)
 Crime: Threatened and assaulted a superior with a knife
 Victim Details: *Schieman* (Boatswain's mate)
 Rec. Punishment (Fiscal): Demotion to *mattroos*, fine 6 months pay
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 17 (3-5); 339 (3-13); [6 Jan]

Name: Pieter Valk
 Status: *Opperstuurman* (First mate)*
 Crime: Assault of his slave (for suspected theft)
 Victim Details: Januarie, slave
 Rec. Punishment (Fiscal): -
 Actual Punishment (Court): Case dropped on condition it does not happen again**
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 17 (6-10, 17-18, 26-29); [21 Apr]

Name: Henning Jochem Prehn
 Status: Burger, *Vaandrig* (Ensign – 3rd highest military rank)*
 Crime: Illegal sale of alcohol/Smuggling (incorrect quantity of alcohol, illegal according to general *placcaat*)
 Victim Details: -
 Rec. Punishment (Fiscal): Fine of 1000 Guilders (according to *placcaat*)
 Actual Punishment (Court): Fined 500 Guilders
 Post/Symbolic Punishment: -
 Reason/s for mitigation: Court recognizes defendant's claim that he was not aware of *placcaat*, claiming it could happen to anyone.
 Source (Vol; Pg; Date): 17 (11-13); 339 (14-20); [10 Mar]

Name: [1] Christiaan Schoonheer
 Status: [2] Cootjie van de Caap
 Crime: [1] *Bandiet* (Convict)
 [2] Slave
 Crime: [1] Destruction of property, runaway convict
 [2] Runaway slave
 Victim Details: [1] Francois Edwardt (property owner)
 Rec. Punishment (Fiscal): [1] Flogging by *Caffers*, 3 years added to previous banishment
 [2] Flogging, Branding, 5 years labour
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 17 (14-18); 339 (22-24)

Name: Jan de Kolf (van Delft)
 Status: *Mattroos*
 Crime: Absconding (left hospital)
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by *Caffers*, 18 months company labour
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 17 (19-21); [7 Apr]

Name: [1] Jan van der Beek
 [2] Matthysz Jansz (van Amsterdam)
 [3] Christoffel van Beek (van Amsterdam)
 [4] Pieter Derriend (van Theems)

Status: *Mattroosen*

Crime: Absconding, *drosting*, vagabonding for
 [1] 6 months
 [2] 2 months
 [3] 11/12 days
 [4] 5 days

Victim Details: -

Rec. Punishment (Fiscal): Flogging by *Caffers*, 18 months company labour

Actual Punishment (Court): Flogged by *Caffers* +
 [1] 18 months company labour
 [2] 12 months company labour
 [3] 6 months company labour
 [4] flogged at shipyard

Post/Symbolic Punishment: -

Reason/s for mitigation: -

Source (Vol; Pg; Date): 17 (21-250; [7 Apr]

Name: David Scheffenaer (van Amsterdam)

Status: *Mattroos, Knegt*

Crime: Murder (stabbing)

Victim Details: Hendrik Thomas, burger

Rec. Punishment (Fiscal): Death by hanging

Actual Punishment (Court): Death by Firing Squad

Post/Symbolic Punishment: Buried (more honourable?)*

Reason/s for mitigation: Defendant asked for firing squad

Source (Vol; Pg; Date): 17 (30-33); 339 (110-129); [Th, 12 May]

Name: Pieter van Samboua

Status: Slave

Crime: Assault (on owner and others)

Victim Details: Slave owner

Rec. Punishment (Fiscal): *Ledebraken* (broken on wheel/cross/pole) without coup de grace

Actual Punishment (Court): As above, body exposed at the gallows

Post/Symbolic Punishment: Displayed corpse at gallows

Reason/s for mitigation: -

Source (Vol; Pg; Date): 17 (33-36); 339 (130-145)

Name: [1] Toontjie
[2] Varken
[3] Ruijter
Status: *Hottentotten*
Crime: Murder, theft (of victim's clothing)
Victim Details: slave
Rec. Punishment (Fiscal): [1]+[2]: Hanging (for the murder)
[3] Flogging (for accepting stolen goods)
Actual Punishment (Court): As above +
[1]+[2]: Corpses exposed at gallows
[3] Branded
Post/Symbolic Punishment: Corpses exposed, branding
Reason/s for mitigation: -
Source (Vol; Pg; Date): 17 (37-41); 339 (146-165)

Name: [1] Valentijn van de Caap
[2] Claas van de Caap
[3] Marre de Kleijne van Madagascar
[4] David van de Caap
Status: Company Slaves
Crime: *Droosting*, vagabonding +
[1]-[3]: Sheep Theft
Victim Details: -
Rec. Punishment (Fiscal): [1]-[3]: Flogging, branding, 10 years company labour
[4] Flogging, 5 years company labour
Actual Punishment (Court): As above
Post/Symbolic Punishment: Branding
Reason/s for mitigation: -
Source (Vol; Pg; Date): 17 (42-45); 339 (166-188); [26 May]

Name: Simon Hazewinkel
Status: Burger
Crime: Mistreatment and assault of fellow burger
Victim Details: Jan Lodwijk Bouwer
Rec. Punishment (Fiscal): Fine 500 Rixdollars, pain costs

Actual Punishment (Court): Fined 1000 Rixdollars, pain costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 17 (46-50); 339 (189-204); [2 June]

Name: [1] Tiombinko (aka Claas)
 [2] Cabeljouw
 Status: Chinese
 Crime: Assault
 Victim Details: Toeako, chinese
 Rec. Punishment (Fiscal): [1] Flogged, branded, 10 years company labour
 [2] Flogged, 5 years company labour
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: Branding
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 17 (53-56); 339 (205-217); [11 Aug]

Name: [1] Rijkaert Jacobsz (van Rotterdam)
 [2] Claas Blank
 Status: [1] *Bandiet* (Convict) on Robben Island
 [2] *Bandiet* (Convict) on Robben Island, *Hottentot*
 Crime: Sodomy (with each other)
 Victim Details: -
 Rec. Punishment (Fiscal): To be taken out to sea, thrown overboard and drowned
 Actual Punishment (Court): Taken to sea and drowned
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 17 (57-61); 339 (218-238); [Th, 18 Aug]

Name: Andries Hanzen
 Status: Corporal at Castle
 Crime: Drunk and disorderly, assault
 Victim Details: Jan Joost Steckweij (Sergeant)
 Rec. Punishment (Fiscal): Run the gauntlet 3 times, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 17 (62-64); 339 (239-254); [Th, 1 Sept]

Name: Jan Smith
 Status: *Mattroos*
 Crime: Theft
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by *Caffers*, 3 years company labour
 Actual Punishment (Court): costs of court
 Post/Symbolic Punishment: -
 Reason/s for mitigation: Defendant claims he was taking the goods on behalf of someone else
 Source (Vol; Pg; Date): 17 (65-67); 339 (255-258); [8 Sept]

Name: [1] Jan Hunter Scheet
 [2] Andries Coenraad
 Status: [1] Carpenter
 [2] *Soldaat*
 Crime: Absconding, *drosting*, vagabonding for
 [1] 5 months
 [2] 1 month
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by *Caffers*, 18 months company labour in chains,
 fined 3 months pay
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 17 (68-71); [Th, 6 Oct]

Name: Bastiaan van Couchin
 Status: Slave
 Crime: Aufugie, theft
 Victim Details: -
 Rec. Punishment (Fiscal): Hanging, body to be exposed at the gallows
 Actual Punishment (Court): Flogging, branding, 10 years labour
 Post/Symbolic Punishment: Branding
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 17 (72-76); 339 (259-268); [13 Oct]

Name: Isak van Es
 Status: Burger
 Crime: Assault
 Victim Details: Dirk Ambueren, Company *Schrywer*/Servant
 Rec. Punishment (Fiscal): Fine 200 Rixdollars
 Actual Punishment (Court): Fined 100 Rixdollars (plus an earlier fine of 25 Rixdollars)
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 17 (77-79, 84-86); 339 (272-283); [27 Oct]

Name: [1] Titus van Madagascar
 [2] Karel van Mandaar
 [3] Aaron van Balijs
 [4] Cupido van Madagascar
 [5] Titus van Gale
 [6] Isak van Bengalen
 [7] Februarij van Mandaar
 [8] Fortuijn van Mallabaar
 Status: [1] Slave
 [2] Toebehoorende
 [3] Toebehoorende
 [4] Leijfeijgen
 [5] Leijfeijgen
 [6] Slave
 [7] Toebehoorende
 [8] Toebehoorende
 Crime: Aufugie, Absconding, drosting, vagabonding (with weapons)
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Coffers,
 [1] Company labour for Life
 [2]-[8] 3 years company labour
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 17 (79-83); 339 (269-271); [27 Oct]

Name: Christiaan Carel van den Bosch
 Status: *Soldaat*
 Crime: Rape, (violent violation)
 Victim Details: Johanna Hoogh, "*meisie*"
 Rec. Punishment (Fiscal): *Geharquebeseert* (Firing squad)** (why such an 'honorable' death?), monetary compensation for victim
 Actual Punishment (Court): Death by Firing Squad
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 17 (88-91); 339 (284-311)

Name: Baatjoe van Boegis
 Status: Leijfeijgen
 Crime: Housebreaking, theft
 Victim Details: Pieter Hugo, home owner
 Rec. Punishment (Fiscal): Tortured, to be hanged, body exposed** (harsh)
 Actual Punishment (Court): Hanged, exposed on gallows
 Post/Symbolic Punishment: Body dragged through town to gallows and exposed
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 17 (107-114); 339 (312-376); [24 Oct]

Name: Alexander van Bengalen
 Status: Slave
 Crime: Sheep Theft, Assault
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging, branding, 25 years company labour
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 17 (115-117); 339 (377-385)

Name: [1] Jacobus Pasman (van Amsterdam)
 [2] Leendart Abamse (van Amsterdam)
 Status: [1] *Vlaggeman*
 [2] *Mattroos*
 Crime: Absconding, drosting, vagabonding for 3 days
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour, 3 months pay
 Actual Punishment (Court): Flogging by Caffers, 6 months company labour
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 15 (117-119); [Th 22 Dec]

[END]

CJ 18; CJ 340 (1736):

Name: Pieter Hendriks (van Doesburg)
 Status: Soldaat
 Crime: Sleeping on duty, thereafter absconding for 6 weeks
 Victim Details: -
 Rec. Punishment (Fiscal): Bound to pole, flogged by Caffers, 6 years company labour in chains, 3 months pay, costs
 Actual Punishment (Court): Bound to a pole, flogged by Caffers, 3 years company labour in chains, fined 3 months pay, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 18 (1-3); [Thurs 19 Jan]

Name: Johan Frederikus Spanhoek (van Pater[b]orn?)
 Status: Mattroos
 Crime: Absconding, vagabonding
 Victim Details: -
 Rec. Punishment (Fiscal): Bound to pole, flogged by Caffers, 18 months company labour in chains, 3 months pay, costs
 Actual Punishment (Court): Flogged by Mattroosen, sent back to ship, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 18 (3-6); [Th 19 Jan]

Name: [1] Ruijter
 [2] Jantje
 Status: Hottentotten
 Crime: Murder, Sheep Theft
 Victim Details: Jonas, Slave and shepherd
 Rec. Punishment (Fiscal): PL Ledebroken from bottom up on cross without coup de grace, left there to die. Bodies to be displayed at gallows.
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: Bodies displayed
 Reason/s for mitigation: -

Source (Vol; Pg; Date): 18 (7-10); 340 (1-15); [Th 1 Mar]

Name: Jacobus Rijschot (van Gent)
 Status: Quatermaster
 Crime: Illegal sale of alcohol
 Victim Details: -
 Rec. Punishment (Fiscal): Fine 1000 Cape Guilders, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 18 (11-12), 340 (16-23); [Th 8 Mar]

Name: Pieter van Hegeraad (van Wesel)
 Status: Soldaat
 Crime: Dangerous Assault (knife)
 Victim Details: Adriaen Lijnback, Soldaat (TB)
 Rec. Punishment (Fiscal): Flogging by Caffers, 3 years company labour in chains, costs
 Actual Punishment (Court): Flogged by Caffers, banished as Mattroos, 3 months pay
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 18 (12-14), 340 (24-31); [Th 8 Mar]

Name: Hendrik Muijzer (van Uijttregt)
 Status: Adelborst/Soldaet
 Crime: Spolie (Theft-TB)
 Victim Details: [K]Claas Root, Constapelsmaat
 Rec. Punishment (Fiscal): Flogging by Caffers, 10 years company labour in chains, costs
 Actual Punishment (Court): Flogged by Caffers, sent back to ship, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 18 (14-16), 340 (32-40); [Th 8 Mar]

Name: [1] Jan Taks
 [2] Jurgen Reijgel
 [3] Christoffel Fabricius
 [4] George Frederik Straus
 Status: [1] Trompetter
 [2+3] Soldaaten
 [4] Burger
 Crime:
 Victim Details:
 Rec. Punishment (Fiscal):
 Actual Punishment (Court):
 Post/Symbolic Punishment:
 Reason/s for mitigation: getuijgens der waarheyd te geven?
 Source (Vol; Pg; Date): 18 (17-18)

Name: [1] Bellesoor van Bengalen
 [2] Aron van Batavia
 [3] Domingo van Mallabaar
 [4] Cupido van Mallabaar
 [5] Thomas van Mallabaar
 [6] Christiaan van de Caab
 Status: [1-3] Slaves (Ondercoopman Nicolaas Leij)
 [4] Leijfeijgen (Burger Marthinus Thielman)
 [5] Slave (Burger Jan Uijltjes)
 [6] Leijfeijgen (Burger Jacob Theodorus Hoetman)
 Crime: Saemen Rotting (Conspiracy – TB), disturbing the peace
 (Disordres)
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Coffers, 1 year company labour in chains,
 thereafter sent to masters, costs (earlier reference to case
 recommends a 3 years sentence)
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 18 (18-20), 340 (41-44); [Th 22 Mar]

Name: Dirk
 Status: *Hottentot*
 Crime: Murder (Party to?), Sheep Theft
 Victim Details: Januarij, Slave (Shepherd)
 Rec. Punishment (Fiscal): PL *Ledebraken* from bottom up on cross without coup de grace, left there to die. Body to be displayed at gallows.
 Actual Punishment (Court): Hanged, body displayed. Costs?
 Post/Symbolic Punishment: Body displayed
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 18 (21, 26-29), 340 (45-55)

Name: Arnoldus
 Status: *Hottentot*
 Crime: Sodomy (with a cow)
 Victim Details: -
 Rec. Punishment (Fiscal): PL To be taken out to sea, thrown overboard and drowned, or whatever the court sees fit.
 Actual Punishment (Court): As above, costs?
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 18 (22, 26-29), 340 (56-63)

Name: Jan Baptist Pierre (van Paris)
 Status: *Soldaat*
 Crime: Absconding, *drosting*, vagabonding for 6 days
 Victim Details: -
 Rec. Punishment (Fiscal): Bound to pole, Flogged by *Caffers*, 18 months company labour in chains, costs
 Actual Punishment (Court): As above

Post/Symbolic Punishment: -
Reason/s for mitigation: -
Source (Vol; Pg; Date): 18 (23-24); [Th 12 Apr]

##On 12 Apr: The fiscal discovered one Francois Eduard, a previous inhabitant at the Cape who fled justice after being sentenced to life in chains under the company for his crime of (attempted?) sodomy. Eduard was working as a cook on the ship *Noordwolfsbergen*. He was taken into custody and placed in chains.## - p25-26

Name: Jan Frans Wentzel (signs own name as 'Jean')
Status: *Soldaat*
Crime: Assault
Victim Details: Marthinus Wessel, Burger
Rec. Punishment (Fiscal): -
Actual Punishment (Court): -
Post/Symbolic Punishment: -
Reason/s for mitigation: Evidence points to innocence of Wentzel, case dropped.
Source (Vol; Pg; Date): 18 (30-31), 340 (64-94); [Th 19 Apr]

Name: [1]Pieter van de Caab
[2] Hannibal van Mallabaar
[3] Januarij van Bengalen
[4] Kaasbal van Balijs
[5] Titus van Bengalen
Status: [1]Slave (van *Predicant* Henricus Bek)
[2-5] Leijfeijgenen (van *den oud Burgerraad* Daniel Pheyl)
Crime: Drostring, *Rotting*, Vagabonding at night
Victim Details: -
Rec. Punishment (Fiscal): Flogging by *Caffers*, 1 year company labour in chains, thereafter sent to masters, costs
Actual Punishment (Court): As above
Post/Symbolic Punishment: -

Reason/s for mitigation: -
 Source (Vol; Pg; Date): 18 (32-34), 340 (95-96); [Th 26 Apr]

Name: Michiel van Emdnelen (van Rotterdam)
 Status: *Jong Mattroos*
 Crime: Sodomy (with two fellow '*jong mattrroosen*')
 Victim Details: [1] Jacobus Byvoet, *jong mattrroos* (willing)
 [2] Jan Peijnders, *jong mattrroos* (forced)
 Rec. Punishment (Fiscal): Life on Robben Island, or whatever court deems fit
 Actual Punishment (Court): 25 years imprisonment on Robben Island, Byvoet banished from the colony
 Post/Symbolic Punishment: -
 Reason/s for mitigation: European?
 Source (Vol; Pg; Date): 18 (34-36), 340 (97-112); [Th 26 Apr]

Name: Januarij van Bengalen
 Status: Slave (of soldaat Christoffel Fabricius)
 Crime: Burglary (housebreaking) with violence, Theft
 Victim Details: his owner
 Rec. Punishment (Fiscal): To be hanged, body exposed on the gallows
 Actual Punishment (Court): To appear with noose around neck, flogged on open back, branding, 10 years in chains labouring for his owner
 Post/Symbolic Punishment: noose round neck
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 18 (37-39), 340 (113-123); [Th 3 May]

Name: Frans Albertsz (van Haerlem)
 Status: *Mattroos*
 Crime: Theft (while in hospital)
 Victim Details: 4 fellow patients
 Rec. Punishment (Fiscal): Flogging by *Caffers* in hospital, 3 years company labour in chains, or a fine of the court's choice
 Actual Punishment (Court): Flogged by *Caffers* in hospital, costs

Post/Symbolic Punishment: -
Reason/s for mitigation: -
Source (Vol; Pg; Date): 18 (40-42), 340 (124-133), [Th 26 July]

Name: Johannes Henseler (van Leipsig)
Status: *Tamboer* (Drummer)
Crime: Theft (in hospital)
Victim Details: Anthonij Mulder & Pieter Burger, *Soldaeten*
Rec. Punishment (Fiscal): Flogging by *Caffers* in hospital, 2 years company labour in chains, costs or fine the court deems fit
Actual Punishment (Court): Flogged by *Caffers* in hospital, 1 year company labour, costs
Post/Symbolic Punishment: -
Reason/s for mitigation: -
Source (Vol; Pg; Date): 18 (42-44), 340 (134-139); [Th 26 July]

Name: Wouter Gijsbertsz (van Beverwijk)
Status: *Mattoos*
Crime: Theft
Victim Details: Alexander Portous, *Krankbesoeker* (signs his name well – and BIG – a sign of importance? Self-importance?)
Rec. Punishment (Fiscal): Flogging by *Caffers*, 3 years company labour in chains, costs, or a fine the court deems fit
Actual Punishment (Court): Flogged by *mattroosen*, costs
Post/Symbolic Punishment: -
Reason/s for mitigation: -
Source (Vol; Pg; Date): 18 (44-45), 340 (140-147); [Th 26 July]

Name: [1] Coert Jansz: (van Huijer)
[2] Willem Graver (van Ter Brugge)
[3] Hendrik Garrevits alias Garbes (van Breemen)
Status: *Mattoosen*
Crime: Assault on their ship's Quatermaster
Victim Details: Hendrik Vleckescheld, Quatermaster

Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour in chains, costs
 Actual Punishment (Court): Flogged by Caffers, fined:
 [1] 6 months pay
 [2+3] 3 months pay
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 18 (46-47, 50-52), 340 (148-164); []

Name: Jurriaen Pietersz: (van Sondenburg)
 Status: Mattroos
 Crime: Drosting and theft
 Victim Details: unnamed man
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour in chains, 3 months pay, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 18 (47-49); [Th 26 Apr]

Name: Claas Jansz: Heijer (van Sandam)
 Status: Opperzeylmaker
 Crime: Committed a crime in 1731 in Amsterdam that he was now admitting guilt for. (Sodomitische Sonden)
 Victim Details: Baron Cobus
 Rec. Punishment (Fiscal): Up to the court what should be done
 Actual Punishment (Court): Sentenced to remain on Robben Island, without pay, until a ship can take him to Europe
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 18 (53,57, 56½, 57½), 340 (185-190); [Th 6 Sept]

Name: Johannes (Jan) Smit[h] (van Oberhildersheijm)

Status: Corporal
 Crime: Public violence (Shouting, Swearing, light Assault)
 [Disturbing peace, asslt]
 Victim Details: Isaac de Vries, Burger
 Rec. Punishment (Fiscal): Run the Guarrison's Gauntlet 3 times, demotion to *soldaat*, costs, or a fine of court's choice
 Actual Punishment (Court): Run the gauntlet 3 times, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 18 (54-56), 340 (165-184); [Th 16 Aug]

Name: Titus van Madagascar
 Status: Slave, convict
 Crime: Theft, Public Misconduct, breaking his chains (syn boeijen)
 [Theft, disturbing peace etc, insubordination]
 Victim Details: -
 Rec. Punishment (Fiscal): Hanging, body to be displayed at gallows
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 18 (58-61), 340 (190- 297); [Th 27 Sept]

Name: [1] Jannal van Tagal
 [2] Padang van Java
 Status: Convicts
 Crime: Theft/Robbery
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging on bare back, branding, 5 years company labour, costs
 Actual Punishment (Court): [1] As above
 [2] Flogged by Caffers, 3 years company labour
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 18 (61-63), 340 (208-220); [Th 27 Sept]

Name: Pieter de Vriend (van Braband)
 Status: Mattroos
 Crime: Droosting
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 18 (64-66); [Th 27 Sept]

Name: [1] Jan Pot (van Dantzig)
 [2] Jan Roelvink (van Amsterdam)
 [3] Arend de Wael (van Rens[wou])
 Status: [1] Derdewaak
 [2] Derdewaak
 [3] Constapel
 Crime: Disturbing the peace, unruly behaviour
 Victim Details: - (Jacob Werner's home- TB)
 Rec. Punishment (Fiscal): Fine of 50 Rixdollars
 Actual Punishment (Court): Costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 18 (66-68), 340 (221-227); [Th 27 Sept]

Name: Nicolaas Kinkel (van Maints)
 Status: Soldaat
 Crime: Violent Assault
 Victim Details: Gerrit Roodenkerk, Mattroos
 Rec. Punishment (Fiscal): Flogging by Caffers, 3 years company labour in chains, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 18 (69-71), 340 (228-244); [Th 11 Oct]

Name: Theunis Sieverts (van Liste)
 Status: Mattroos (TB)
 Crime: Assault
 Victim Details: Jurgen Kort, Mattroos
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour in chains, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 18 (71-73), 340 (245-253); [Th 11 Oct]

Name: Juliana Constant
 Status: Free Black
 Crime: Concealing/ Failing to report a crime [company regulation]
 Victim Details: -
 Rec. Punishment (Fiscal): Fine of 100 Rixdollars
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 18 (74-76), 340 (254-255); [Th 25 Oct]

Name: Carel Diederik Buijtendag [Boetendag]
 Status: Burger
 Crime: Illegal sale of liquor licence
 Victim Details: -
 Rec. Punishment (Fiscal): Fine of 1000 Cape Guilders
 Actual Punishment (Court): -
 Post/Symbolic Punishment: -
 Reason/s for mitigation: Parties come to a settlement amongst themselves and the case is dropped, despite several weeks of court proceedings.
 Source (Vol; Pg; Date): 18 (78-80,83-102); 340 (256-327)

Name:	Pieter de Pape (van Ingien)
Status:	Soldaat
Crime:	Absconding, drosting, vagabonding for 3 weeks
Victim Details:	-
Rec. Punishment (Fiscal):	Flogging by Caffers, 18 months company labour in chains, 3 months pay, costs
Actual Punishment (Court):	As above
Post/Symbolic Punishment:	-
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	18 (80-82); [Th 8 Nov]

[END]

CJ 19; CJ 341 (1737):

Name: Alexander van Bengalen *(a big case in 341)
 Status: Slave/Leijfeijgen
 Crime: Schelmen en Rovers (Plotting/General 'Gangery' and thievery?) – Part of a droster gang involved in murder, theft, disturbing the peace and more.
 Victim Details: -
 Rec. Punishment (Fiscal): ?- Doesn't form part of the fiscal's *conclusie* as do the other gang members...
 Actual Punishment (Court): Bound to a cross, Flesh from arms and legs 'pinched' with hot tongs, Ledebraken from bottom up without *coup de grace*, body to remain on cross until death, thereafter to be dragged to the gallows for the display of his body
 Post/Symbolic Punishment: Body displayed
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (1-4), 341 (1-73); [Th 17 Jan]

Name: [1] Tamboe van Madagascar
 [2] Joseph van Mallabaar
 [3] Januarij van Bengalen
 [4] Anna van Madagascar
 [5] Dina van Rio de la Goa
 [6] Diana van Rio de la Goa
 Status: [1] Slave
 [2] Toebehoorende
 [3] Leijfeijgen
 [4] Slave (Jacobus Marshoorn)
 [5] Toebehoorende (Jacobus Marshoorn)
 [6] Slave
 Crime: Murder, Theft, Assault, Disturbing the peace, Armed Rebellion
 Victim Details: -
 Rec. Punishment (Fiscal): [1] Bound on cross, *ledebraken* from bottom up without *coup de grace*, body to be displayed at gallows
 [2+3] Hanging, bodies to be displayed at gallows
 [4] Bound to a pole, "met brandent stroo in 't aengesigt geblakert" (hot coals/straw in the face?), to be strangled to death, body displayed at gallows

Actual Punishment (Court):	[5+6] Strangled to death, bodies displayed at gallows
Post/Symbolic Punishment:	All as above
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	19 (5-7, 9-14), 341 (1-73); [Th 31 Jan]

Name:	[1] Claas van Batavia
	[2] Arend van Bengalen
Status:	[1] Slave
	[2] Leijfeijgen
Crime:	<i>Aufugie</i> and theft
Victim Details:	-
Rec. Punishment (Fiscal):	Flogging, 3 years company labour in chains
Actual Punishment (Court):	As above, costs
Post/Symbolic Punishment:	-
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	19 (7, 14-16), 341 (74-80); [Th 31 Jan]

Name:	Pieter van de Caab
Status:	Slave
Crime:	<i>Aufugie en Spolie</i>
Victim Details:	-
Rec. Punishment (Fiscal):	Flogging, branding, 10 years company labour in chains
Actual Punishment (Court):	Flogged, 3 years company labour in chains, costs
Post/Symbolic Punishment:	-
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	19 (8, 16-18), 341 (81-88); [Th 31 Jan]

[19 – p19 -21, note on Slammat, a slave reporting theft in Fish Hoek area? Th 14 Mar]
 [p22-23, note on Batchoe and Dina van Rio de la Goa]

Name: Perma van Mallabaar
 Status: Slave
 Crime: Aufugie, disturbing the peace, plotting armed revolt
 Victim Details: -
 Rec. Punishment (Fiscal): To be hanged, body to be displayed at gallows (strung up again)
 Actual Punishment (Court): Flogged, branded, 5 years company labour in chains, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (24-26), 341 (89-92); [Th 28 Mar]

Name: [1] Fortuijn van Bengalen
 Status: [2] Coesar van Timor
 Status: [1] Slave
 Status: [2] Leijfeijgen
 Crime: Aufugie and theft
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging, 3 years company labour, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (26-28), 341 (93-99); [Th 28 Mar]

Name: Aron van Madagascar
 Status: Leijfeijgen
 Crime: Aufugie, assisting group of armed *gaauwdieven [theft]*
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging, branding, 10 years company labour in chains, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (28-30), 341 (100-106); [Th 28 Mar]

Name: [1] Januarij van Bengalen *see supposed note from his brother, p111
 [2] Maij van Nias
 Status: Slaves
 Crime: Theft (*domesticque diefte*)
 Victim Details: -
 Rec. Punishment (Fiscal): [1] Flogging, branding, 6 years company labour in chains, costs
 [2] Flogging by Caffers, 2 years labour in chains, costs
 Actual Punishment (Court): [1] As above
 [2] Flogged by Caffers
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (30-33, 90-91), 341 (107-114); [Th 28 Mar]

[Pieter Lourensz makes council aware of a possible case of murder of a slave by Johannes Groenewalt and Jan Verbeek – case held in advice – Th 4 Apr + Th 25 Apr PL calls for their appearance in the court]

Name: Jacobus Marshoorn (see his slaves earlier)
 Status: Burger
 Crime: Assault
 Victim Details: Carel Jacob Dietsz, Soldaat
 Rec. Punishment (Fiscal): Banishment from the Cape, Pain costs of Dietsz, costs
 Actual Punishment (Court): Fined 100 Rxd, Pain costs of Dietsz, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: - noted later that Marshoorn agreed to pay 15 Rxd in pain costs (p.122-3)
 Source (Vol; Pg; Date): 19 (27½, 44-5, 70, 74-7, 87-8, 100-1, 103-6, 122-3), 341 (202-248); [Th 15 Aug]

Name: Barkat van Leding
 Status: Slave

Crime: Sodomy (with a dog)
 Victim Details: -
 Rec. Punishment (Fiscal): PL Taken out to sea and thrown overboard to drown (with weights)
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (38-39), 341 (115-121); [Th 9 May]

Name: Jan de With
 Status: Burger Councillor
 Crime: Smuggling (TB)/Illegal sale of alcohol
 Victim Details: -
 Rec. Punishment (Fiscal): Fine of 1000 Cape guilders, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (39-41), 341 (122-124); [Th 9 May]

Name: [1] Frans Lodewijk Prison (van Mulbeek)
 [2] Johan Nicolaas Suring (van Apelsted/Apelstad)
 [3] Hendrik Tieffenbach (van Frankfort)
 Status: Soldaaten
 Crime: Assault, General Disturbance * Could be interesting in terms of the status of the victims and the fairly lenient punishment received, as this was a fairly serious case of assault??
 Victim Details: [1] Clara, Slave
 [2] Tantsianko, Chinese
 [3] Oanko, Chinese
 Rec. Punishment (Fiscal): Flogging by Caffers, 3 years company labour in chains, costs
 Actual Punishment (Court): Flogged by Caffers, banished
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (41-43), 341 (125-143); [Th 9 May]

Name: [1] Jan Deijl (van Ravensteijn)
 [2] Pieter Wessels (van Ravensteijn)
 Status: Hooplopers? (a supernumerary sailor)
 Crime: Absconding, drosting, vagabonding for 1 month
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour in chains,
 fine of 3 months pay, costs
 Actual Punishment (Court): Flogged by Mattroosen, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (45-47), [Th 16 May]

Name: Carel van Malacca**
 Status: Caffer
 Crime: Theft
 Victim Details: -
 Rec. Punishment (Fiscal): Bound to a pole, strangled to death (on the beach)*as an
 example
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (48-55); [Th 23 May]

Name: [1] April van Batavia
 [2] Carta van Java
 [3] October van Ternaten
 Status: Caffers**
 Crime: Theft from a shipwreck (items washed up on shore)
 Victim Details: -
 Rec. Punishment (Fiscal): Hanged on a pole (on the beach)*as example
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (56-69), [Fr, 24 May]

Name: [1] Johannes Groenewalt
 [2] Jan Verbeek
 Status: Landbouwers, [1] Oud Heemraad
 Crime: Assault and Murder of a slave
 Victim Details: Abraham van de Caab
 Rec. Punishment (Fiscal): PL [1] To have privileges and status removed. To be detained in donker gat for 3 months on diet of bread and water, thereafter to be banished from the colony with confiscation of assets, costs
 [2] As above, without the removal of status and privileges (wasn't in the same position)
 Actual Punishment (Court): [1] Removal of burger privileges[p.110], fine of 200 Rxd
 [2] Fine of 100 Rxd
 Post/Symbolic Punishment: -
 Reason/s for mitigation: After a long backwards and forwards battle, this pitiful decision is made, and the slave held in custody was released back to Groenewalt on condition the same did not occur again. Case is brought up again in November as Offenders consider themselves injured by the Landdrost's actions against them.*
 Source (Vol; Pg; Date): 19 (34-37, 71, 82-83, 89-90, 92-93, 109-115, 148-9), 341 (275-382); [Th 29 Aug]

Name: Claas van Bengalen
 Status: Slave
 Crime: Murder
 Victim Details: Sara, 'Hottentotin'
 Rec. Punishment (Fiscal): Bound to cross, Ledebraeken from bottom up without coup de grace, left on rad to die. Body to be displayed at the gallows.
 Actual Punishment (Court): -
 Post/Symbolic Punishment: -
 Reason/s for mitigation: Case to be further investigated by the Landdrost. Claas is placed in chains on public works on the 15th of August.
 Source (Vol; Pg; Date): 19 (72, 93-94, 101-102)

Name: Andries Hebbelet (van Delft)
 Status: Ship's Corporal

Crime: Theft (on the beach)
 Victim Details: -
 Rec. Punishment (Fiscal): Hanging/Strangulation on the beach
 Actual Punishment (Court): Flogged on bare back, branded, 10 years company labour in chains, costs
 Post/Symbolic Punishment:
 Reason/s for mitigation:
 Source (Vol; Pg; Date): 19 (77-81), 341 (144-158); [Th 27 June]

Name: [1] Thomas d'Autrepon (van Vervie)
 [2] Johannes Moesemaaker (van Stockheim/Stolkheim)
 [3] Jan Smal (van 's Hagen)
 [4] Hendrik Alroets (van Guttingen)
 Status: [1] Derde Meester
 [2] Metzelaar
 [3] Cook
 [4] Metzelaar
 Crime: Spolie (Theft?) en Moedwil?
 Victim Details: -
 Rec. Punishment (Fiscal): [1+2] Flogging on bare back, branding, 10 years company labour in chains, costs
 [3] Flogging on bare back, branding, 3 years company labour in chains, costs
 [4] Flogging by Caffers, costs
 Actual Punishment (Court): [1+2] As above
 [3] Flogged by Caffers, 1 years company labour in chains, costs
 [4] Flogged by Caffers, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (84-87), 341 (159-191), [Th 11 July]

Name: Lena van de Caab
 Status: Company Slave
 Crime: Theft/Robbery
 Victim Details: Company itself (she stole from the Company Gardens – “Lywaet”?)

Rec. Punishment (Fiscal): Death by Strangulation, body to be displayed at gallows
 *harsh recommendation, though the fiscal notes early on that this is not the first time she has been found guilty of a crime, and has been in chains on public works before, hinting that it did not have the desired effect on her?

Actual Punishment (Court): Flogged on bare back, branded, life in chains on company works, costs

Post/Symbolic Punishment: -

Reason/s for mitigation: -

Source (Vol; Pg; Date): 19 (95-97), 341 (192-201)

Name: [1] Jan Pietersz (van Horen)
 [2] Jan Jonas Peegel (van Lubeek)
 [3] Lourensz Welsing (van Amsterdam)
 [4] Barend Versluijs (van Oudewater)
 [5] Willem Jacobsz Vermeulen (van Strijen)
 [6] Harmanus Scheeper (van Amsterdam)

Status: Mattroosen

Crime: Absconding, drosting, vagabonding (first= no specific time period, others for 2 nights)

Victim Details: -

Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour in chains, costs

Actual Punishment (Court): [1+2] As above
 [3-6] Flogged by mattroosen, costs

Post/Symbolic Punishment: -

Reason/s for mitigation: -

Source (Vol; Pg; Date): 19 (97-100); [[Th 15 Aug]

Name: [1] Jacobi Tjerks (van Ameland)
 [2] Samuel Vondel (van Middelburg)
 [3] Philip Obliander (van Amsterdam)
 [4] Thileman van Beurde (van Tilburg)

Status: [1-3] Mattroosen
 [4] Oplooper (Hooploper?)

Crime: Absconding for 3 days

Victim Details: -

Rec. Punishment (Fiscal):	Flogging by Caffers, 18 months company labour in chains, fine of 3 months pay, costs
Actual Punishment (Court):	Flogged by Mattroosen, costs
Post/Symbolic Punishment:	-
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	19 (107-9); [Th 29 Aug]

Name:	Anthonij van Ternaten
Status:	Slave
Crime:	Housebreaking, Theft
Victim Details:	Jacob van der Mist, burger (stole from his house in Table Valley)
Rec. Punishment (Fiscal):	Hanging (<i>met der koorde aen de galg gestraft te warden, dat er de dood navolgt</i>), body to be displayed at gallows
Actual Punishment (Court):	As above
Post/Symbolic Punishment:	Body displayed at gallows
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	19 (116-118), 341 (383-393); [Th 12 Sept]

Name:	Januarij van Tutocorijn
Status:	Slave
Crime:	Housebreaking and theft
Victim Details:	Nicolaas Corhelius (Cochelius in TB), burger (stole food)
Rec. Punishment (Fiscal):	Flogging by Caffers, 18 months company labour in chains, costs
Actual Punishment (Court):	Flogged by Caffers, sent back to his master, costs
Post/Symbolic Punishment:	-
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	19 (118-120), 341 (394-398); [Th 12 Sept]

Name:	Jan Frederik (van Arnhem)
Status:	Mattroos
Crime:	Theft (in hospital)
Victim Details:	Arij Symondz, mattroos

Rec. Punishment (Fiscal):	Flogging by Caffers in hospital, 3 years company labour in chains, costs
Actual Punishment (Court):	Flogged by Caffers in hospital, costs
Post/Symbolic Punishment:	-
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	19 (120-122), 341 (399-403); [Th 12 Sept]

[Johannes Needer (Ondercoopman) takes over as interim fiscal from this point onwards]

Name:	[1] Gerrit Jansz: (van Peekel) [2] Wiebe Swijzers (van Penjon) [3] Martinus van Bergen (van Lier) [4] Jacobus van der Linde (van Oud Beijerland) [5] Jonas der Lij (van Amsterdam) [6] Daniel van der Heijden (van Amsterdam)
Status:	[1] Quartermaster [2-6] Mattroosen
Crime:	Absconding, drosting, vagabonding for: [1-5] 8 days [6] 6 days
Victim Details:	-
Rec. Punishment (Fiscal):	Flogging by Caffers, 18 months company labour, fine of 3 months pay, costs
Actual Punishment (Court):	[1] As above [2-6] Flogged by Mattroosen, costs
Post/Symbolic Punishment:	-
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	19 (124-127); [Th 17 Oct]

Name:	Frans van Veuren (van Sons)
Status:	Mattroos
Crime:	Absconding, drosting, vagabonding for 8 days
Victim Details:	-
Rec. Punishment (Fiscal):	Flogging by Caffers, 18 months company labour in chains, fine 3 months pay, costs

Actual Punishment (Court): Flogged by mattruosen, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (128-130); [Th 17 Oct]

Name: [1] Jacobus Mesman (van Hoesem)
 [2] Pieter Wessels (van Ravesteijn)
 [3] Jan Diel (van Ravesteijn)
 Status: Mattruosen
 Crime: Absconding, drosting, vagabonding for:
 [1+2] 24 days
 [3] 25 days
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour in chains,
 fine 3 months pay, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (131-133); [Th 24 Oct]

Name: Jan Thomas
 Status: Hout Kapper
 Crime: Killed a slave he found breaking the law of chopping wood
 in company territory
 Victim Details: Bahar, slave
 Rec. Punishment (Fiscal): -
 Actual Punishment (Court): Released from custody
 Post/Symbolic Punishment: -
 Reason/s for mitigation: The court adjudged the killing of the slave as having been a
 mistake and Thomas was set free.
 Source (Vol; Pg; Date): 19 (133-4), 341 (404-18); [Th 24 Oct]

Name: [1] Cornelis Frenen (Treeme in TB/341) (van Breda)
 [2] Hans Jurgen (van Copenhagen)

Status: [1] Tamboer
 [2] Mattroos
 Crime: Challenging (uytdaegens) and Duelling (duelleeren)
 [company regulation]
 Victim Details: Jurgen was wounded seriously though both were involved
 in the flare up in their own respective ways
 Rec. Punishment (Fiscal): Hanging. Bodies to be displayed at the gallows.
 Actual Punishment (Court): [1] Flogged by Caffers, 3 years company labour in chains,
 costs
 [2] Flogged by Caffers
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (135-6, 145, 149-151), 341 (453-468); [Th 21 Nov]

Name: Fortuijn van Bengalen
 Status: Slave
 Crime: Sodomy (with a cow and a sheep)
 Victim Details: -
 Rec. Punishment (Fiscal): To be taken out to sea, thrown overboard with weights and
 drowned.
 Actual Punishment (Court): Initial torture. As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (137-9, 146-8), 341 (428-452), [Th 21 Nov]

Name: Pieter van der Scheer[e] (van Dort)
 Status: Soldaat, Knecht
 Crime: Theft
 Victim Details: Christien Victor, Burger (stole money from him over a
 period of time)
 Rec. Punishment (Fiscal): Flogging, branding, 5 years labour on Robben Island in
 chains, costs
 Actual Punishment (Court): Flogged by Caffers, 3 years company labour in chains,
 costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (140-142), 341 (418-427); [Th 14 Nov]

Name: [1] Jan van den Berg (van 's Hertogenbosch)
 [2] Jan Hoveers (van Bremen)
 Status: [1] Houtkapper
 [2] Mattroos
 Crime: Absconding, drosting vagabonding for 1 and a half years
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 3 years company labour in chains, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (142-5); [Th 14 Nov]

Name: Pieter Roelofsz (aka Pieter de Duijker)
 Status: Company Diver
 Crime: Illegal sale of alcohol (too little)
 Victim Details: -
 Rec. Punishment (Fiscal): Fine of 1000 Cape Guilders
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (151-153), 341 (468-476); [Th 21 Nov]

Name: Johannes Grooskoort
 Status: Baker
 Crime: Illegal sale of alcohol (too little)
 Victim Details: -
 Rec. Punishment (Fiscal): Fine of 1000 Cape Guilders
 Actual Punishment (Court): Costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: Grooskoort claims to have been giving this wine as a gift, and had the receipt to prove his purchase thereof (TB + p.154-5)
 Source (Vol; Pg; Date): 19 (153-5), 341 (477-note); [Th 21 Nov]

Name: [1] Christiaan Clemse (van Seven Huijsen)
 [2] Matthijsz Runsson (van Dantsjouw)
 Status: [1] Steenhouwer
 [2] Mattroos
 Crime: Absconding, drosting, vagabonding for:
 [1] 20 days
 [2] 6 days
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers ([1] in hospital), 18 months company
 labour in chains, fine of 3 months pay, costs
 Actual Punishment (Court): Flogged by Caffers, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (156-158); [Th 5 Dec]

Name: Clara Tant van Constantia
 Status: Free Black
 Crime: Concealing a droster [company reg]
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 3 years company labour in chains, or
 whatever the court sees fit
 Actual Punishment (Court): Flogged by caffers, 3 years company labour in chains, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (159-161), 341 (477-480); [Th 19 Dec]

Name: Wilhelmus Frederikus Theodorus With (van Nassouw-
 Dilburg)
 Status: Soldaat
 Crime: Theft
 Victim Details: Johannes Braams, soldier (various valuable articles stolen
 from his chest)

Rec. Punishment (Fiscal): Flogging by Caffers, 3 years company labour in chains, costs
 Actual Punishment (Court): Flogged by Mattroosen, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (161-162), 341 (481-484); [Th 19 Dec]

Name: [1] Harmanus Scheepen (van Amsterdam)
 [2] Claas Willemsz Kuijk (van Amsterdam)
 [3] Cornelis Muijlwijk (van Giese)
 [4] Harmanus Aukes (van Sneek)
 [5] Paulus Siep (van Gulikstad)
 Status: Mattroosen
 Crime: Absconding, drosting, vagabonding for:
 [1] 2 months
 [2-4] 10 days
 [5] 4 days
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour in chains, fine of 3 months pay, costs
 Actual Punishment (Court): [1] As above
 [2-4] Flogged by Caffers, 6 months company labour in chains, costs
 [5] Flogged by Mattroosen, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 19 (162-166); [Th 19 Dec]

[END]

CJ 20, CJ 342 (1738):

Name: [1] Pieter Coridon
 [2] Jan van Ceylon
 [3] Jacob van Bengalen
 [4] November van Ternaten
 [5] Roman van Batavia
 Status: Slaves/Leijfeijgens
 Crime: Complottering
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, Chained for 1 year, costs
 Actual Punishment (Court): Flogged, sent back to owners, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (1-3), 342 (1-2); [Th 2 Jan]

Name: Harmen Cloppenburg
 Status: Soldaat, Knecht
 Crime: Murder and assault of hottentots
 Victim Details: Hottentotten (various)
 Rec. Punishment (Fiscal): Hanging, body to be displayed at gallows
 Actual Punishment (Court): Banishment from Colony on pains of further punishment, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (4-6), 342 (3-25); [Th 16 Jan]

Name: Jan Paulusz (van Oorhosen)
 Status: Mattroos
 Crime: Absconding, drosting, vagabonding for 24 days
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour in chains, fined 3 months pay, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -

Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (6-8); [Th 16 Jan]

Name: Estienne Barbier
 Status: Sergeant
 Crime: Injury to Lt. Alleman (non-physical) [other-non crime?]
 Victim Details: Rudolf Sigfried Alleman, Lieutenant
 Rec. Punishment (Fiscal):
 Actual Punishment (Court):
 Post/Symbolic Punishment:
 Reason/s for mitigation:
 Source (Vol; Pg; Date): 20 (8-9), 342 (26)

Name: [1] Fortuijn van de Cust
 [2] Coridon van Mandhar
 Status: [1] Leijfeijgen
 [2] Slave
 Crime: Drostring, plus:
 [1] Freeing a captive from the prison [company reg]
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging, costs, company labour in chains for:
 [1] 6 years
 [2] 3 years
 Actual Punishment (Court): As above, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (10-12), 342 (27-29); [Th 6 Mar]

Name: [1] Jalandie van Batavia
 [2] Sijmon van Bengalen
 Status: [1] Bandiet (Convict)
 [2] Slave
 Crime: Theft
 Victim Details: Company stores
 Rec. Punishment (Fiscal): Flogging, 5 years company labour in chains, costs

Actual Punishment (Court):	As above
Post/Symbolic Punishment:	-
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	20 (12-14), 342 (30-36); [Th 6 Mar]

Name:	Pieter Roelofsz (van Hoesem)
Status:	Mattroos
Crime:	Absconding, drosting, vagabonding for 25/6 days
Victim Details:	-
Rec. Punishment (Fiscal):	Flogging by Caffers, 18 months company labour in chains, fine 3 months pay, costs
Actual Punishment (Court):	As above
Post/Symbolic Punishment:	-
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	20 (14-16); [Th 6 Mar]

Name:	[1] Willem Frederix [Frederikz?] (van Leenwaarden) [2] Dirk Verburg (van Gouda) [3] Jan Janse Roos (van Bloksiel)
Status:	Mattroosen
Crime:	Absconding, drosting, vagabonding
Victim Details:	-
Rec. Punishment (Fiscal):	Flogging by Caffers, 18 months company labour in chains, fine 3 months pay, costs
Actual Punishment (Court):	As above
Post/Symbolic Punishment:	-
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	20 (16-18); [Th 6 Mar]

Name: [1] Michiel Pietersz: (van Dantzig)
 Status: [2] Hendrik Isaacq Vitzer (van Frankfort)
 [1] Mattroos
 [2] Voor Opperuijper
 Crime: Absconding, drosting, vagabonding for
 [1] 10 years! (since 1728 when his ship landed)
 [2] 3 years (since 1735 when his ship landed)
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, costs, company labour in chains for
 [1] 6 years
 [2] 3 years
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (19-22); [Th 13 Mar]

Name: Cornelis Cornelisz (van Flensburg)
 Status: soldaat/mattroos
 Crime: Absconding, drosting, vagabonding for 8 days
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour in chains,
 fine 3 months pay, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (22-23); [Th 13 Mar]

Name: Godlieb Kwarter (uijt het Holsteijnse)
 Status: Onderbaas in gardens
 Crime: Assault with a stick
 Victim Details: Hermanus Rondeel, mandoor
 Rec. Punishment (Fiscal): Flogging by Caffers, 3 years company labour in chains,
 costs
 Actual Punishment (Court): Flogged by mattroosen, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -

Source (Vol; Pg; Date): 20 (24-5), 342 (37-45); [Th 13 Mar]

Name: [1] Albert Jansz de Kroon (van Gouda)
 [2] Willem van Bergh (van Gouda)
 [3] Hendrik van Loon (van Leijden)
 [4] Pieter Meijer van (Soomergen)
 [5] Jan Hendrik Kok (van het Graatschap Dijcholt?)
 [6] Joost Philips (van Haamsteede)
 [7] Hans Jurgengolst (van Saxen)
 [8] Hendrik Benset (van Rijnsburg)
 [9] Jacob de Gloor (van Amsterdam)

Status: [1+2] Quatermasters
 [3] Hooplooper
 [4]? Mattroos?
 [5]? Mattroos? In hospital
 [6-9] Mattroosen

Crime: Absconding, drosting, vagabonding for:
 [1] 5 weeks
 [2] 4 weeks
 [3] 14 days
 [4] 8 days
 [5-8] 3 weeks
 [9] 14 days

Victim Details: -

Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour in chains,
 fine 3 months pay, costs

Actual Punishment (Court): Flogged by Caffers, costs

Post/Symbolic Punishment: -

Reason/s for mitigation: -

Source (Vol; Pg; Date): 20 (26-29); [Th 27 Mar]

[Note on soldaat Ernst Frederik Bek, being held in custody for suspected sodomy – released from said custody after examination – Fri 28 Mar, 20 (30), 342 (46)]

Name: Nicolaas Wys (van Beauchamp)
 Status: Tamboer
 Crime: Desertie (Desertion) [military crime]
 Victim Details: -
 Rec. Punishment (Fiscal): Run the gauntlet 6 times
 Actual Punishment (Court): Run the gauntlet 3 times
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (31-2), 342 (48-52); [Th 10 Apr]

Name: Christiaan Hendrikz[x] (van Rotterdam)
 Status: Mattroos
 Crime: Absconding, drosting, vagabonding for 1 month
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour in chains, fine 3 months pay, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (33-5); [Th 8 May]

Name: [1] Jacobus Pienaar
 [2] Dirk Coetse
 [3] Gerrit Pretorius
 [4] Willem Meijburg
 Status: Landbouwers
 Crime: Assault
 Victim Details: Jan Helwig, Soldaat
 Rec. Punishment (Fiscal): [1-3] Banishment, pain costs, costs
 [4] Fine of 50 Rxd, costs
 Actual Punishment (Court): [1-3] Flogged by Mattroosen, combined fine of 50 Rxd, pain costs of Helwig, costs
 [4] Fine of 25 Rxd
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (36-7, 46-51), 342 (75-117); [Th 5 June, Sat 7 June]

Name: George Adam Wasenaer
 Status: Sergeant
 Crime: Smoekelarije (Smuggling)
 Victim Details: -
 Rec. Punishment (Fiscal): -
 Actual Punishment (Court): court asks for further evidence before a decision can be made
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (37-8); [Th 22 May]

Name: Isak van Houten (van Sommeldijk)
 Status: Mattroos
 Crime: Absconding, drosting, vagabonding (since 1737)
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour in chains, fine 3 months pay, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (39-40); [Th 22 May]

Name: [1] Lucas van Bengalen
 [2] Bastiaan van Bengalen
 [3] Cupido van Mallabaar
 Status: [1] Leijfeijgen
 [2] Slave
 [3] Toebehoorende
 Crime: [1+2] Aufugie, Spolie, Sheep theft
 [3] Sheep theft
 Victim Details: -
 Rec. Punishment (Fiscal): [1+2] Hanging, bodies to be displayed at gallows
 [3] Displayed at gallows with noose round the neck,
 flogging, branding, 3 years company labour in chains
 Actual Punishment (Court): [1+2] As above
 [3] Flogged on bare back , sent back to master
 Post/Symbolic Punishment: Bodies displayed at gallows
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (41-44), 342 (53-62); [Th 5 June]

Name: [1] Alexander van Bengalen
 [2] Batjoe van Samboua
 [3] Jacob van Batavia
 Status: [1+2] Slaves
 [3] Leijfeijgen
 Crime: Aufugie, Cattle theft
 Victim Details: -
 Rec. Punishment (Fiscal): Hanging, bodies to be displayed at the gallows
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: Bodies displayed at gallows
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (44-46), 342 (63-74); [Th 5 June]

Name: [1] Sara van Maccassar
 [2] Jan Swart van Madagascar
 [3] Julij van Nias
 Status: [1] Toebehoorende
 [2] Leijfeijgen
 [3] Slave
 Crime: Aufugie, Same Rotting (Conspiring/gathering)
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging, Branding, 5 years company labour in chains, costs
 Actual Punishment (Court): Flogged by Caffers, 3 years labour for masters in chains
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (52-4), 342 (118-128); [Th 19 June]

Name: Otto Frolich (van Coningsbergen)
 Status: Soldaat
 Crime: Assault (with a knife) on board ship, against superior officer
 Victim Details: Cornelis Vis, quartermaster
 Rec. Punishment (Fiscal): Flogging by Caffers, 1 year company labour in chains, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -

Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (54-6), 342 (129-142); [Th 19 June]

Name: [1] Cornelis Martensz van Lugtenburg (van Alphen)
 [2] Frans Vloetbergen (van Leijden)
 Status: [1] *Mattoos*
 [2] *Botteliersmaat*
 Crime: Absconding, drosting, vagabonding for
 [1] 2 months
 [2] 11 days
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by *Caffers*, 18 months company labour in chains,
 fine 3 months pay, costs
 Actual Punishment (Court): [1] As above
 [2] Flogged by *mattoosen*
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (57-60), [Th 26 June]

Name: Hendrik Pennink (van Uijtrecht)
 Status: *Mattoos*
 Crime: Absconding, *drosting*, vagabonding for 8 days
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by *Caffers*, 18 months company labour in chains,
 fine 3 months pay, costs
 Actual Punishment (Court): Flogged by *Caffers*, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (61-3); [Th 3 July]

Name: Jan Sammens (van Niese)
 Status: *Mattroos*
 Crime: Absconding, *drosting*, vagabonding for 4 months
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by *Caffers*, 18 months company labour in chains, fine 3 months pay, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (64-6); [Th 17 July]

Name: [1] Thomas van Suratte
 [2] Leander van Mallabaar
 [3] Bekkes van Mallabar
 [4] Elias van Boegis
 [5] Sijmon van Bengalen
 [6] Dirk van Mallabaar
 [7] Alexander van Mallabaar (only in 342)
 Status: Slaves
 Crime: *Aufugie*, robbery, sheep theft
 Victim Details: -
 Rec. Punishment (Fiscal): Hanging, with sheep pelt above heads, bodies to be displayed at gallows
 Actual Punishment (Court): [1-6] Hanging, with sheep pelt above heads, bodies to be displayed at gallows
 [7] ? Name not listed in 20 (appears later – see later entry)
 Post/Symbolic Punishment: Sheep pelt above heads, bodies displayed at gallows
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (67-70), 342 (143-179, 207); [Th 31 July]

Name: Porfet van Batavia
 Status: Slave
 Crime: *Aufugie*, sheep theft
 Victim Details: -
 Rec. Punishment (Fiscal): Hanging, with sheep pelt and weapon above head, body to be displayed at gallows
 Actual Punishment (Court): As above

Post/Symbolic Punishment: Sheep pelt and weapon above head, body displayed at gallows

Reason/s for mitigation: -

Source (Vol; Pg; Date): 20 (70-71), 342 (180-191); [Th 31 July]

Name: Fortuijn van Bengalen

Status: Slave

Crime: Rape of a slave girl

Victim Details: Lea, Slave (8/9 years old)

Rec. Punishment (Fiscal): Bound to cross, *ledebraken* from bottom up, without *coup de grace*, thereafter placed on 'rad' at gallows to be displayed

Actual Punishment (Court): As above, costs

Post/Symbolic Punishment: Body displayed at gallows

Reason/s for mitigation: -

Source (Vol; Pg; Date): 20 (72-74), 342 (192-206); [Th, 7 Aug]

Name: Damon van Nias

Status: Slave

Crime: Murder and other "gruweldaaden" (gruesome deeds?)

Victim Details: ??

Rec. Punishment (Fiscal): Bound to a cross, flesh pulled out with hot tongs, *ledebraaken* from bottom up without *coup de grace*, left until dead, body to be displayed at gallows

Actual Punishment (Court): As above

Post/Symbolic Punishment: body displayed at gallows

Reason/s for mitigation: -

Source (Vol; Pg; Date): 20 (75-79); [Fri 29 Aug]

Name: [1] Fortuijn

[2] Matthys

Status: Slaves

Crime: Shot the above slave Damon van Nias (presumably to prevent the suffering of his aforementioned punishment?)
[company reg]

Victim Details: Damon van Nias

Rec. Punishment (Fiscal): -

Actual Punishment (Court): Beheading, heads to be placed on iron rods in the Tyger Bergen area, as example to others

Post/Symbolic Punishment: Heads on rods as an example

Reason/s for mitigation: -

Source (Vol; Pg; Date): 20 (80-1); [Sat 30 Aug]

Name: [1] Lodewijk
[2] Alexander
[3] Thomas

Status: Slaves

Crime: Gruesome Murder (slit the throat of another slave)

Victim Details: [Leijd, slave]

Rec. Punishment (Fiscal): Intestines to be removed and burnt, the ashes of which to be thrown in the sea, bodies to be quartered and displayed on posts, heads displayed separately

Actual Punishment (Court): As above

Post/Symbolic Punishment: All?

Reason/s for mitigation: -

Source (Vol; Pg; Date): 20 (82-3); [Sun 31 Aug]

Name: Alexander van Mallabaar (see previous case)

Status: Leijfeijgen

Crime: Aufugie, robbery, sheep theft

Victim Details: -

Rec. Punishment (Fiscal): Hanging, with sheep pelt above head, body to be displayed at gallows

Actual Punishment (Court): Flogged, Branded, “der regter hakscheen? afgesneeden”, sent back to his master

Post/Symbolic Punishment: -

Reason/s for mitigation: -

Source (Vol; Pg; Date): 20 (84-86), 342 (143-179, 207); [Th 4 Sept]

Name: [1] Anthonij van Bengalen
 [2] Pedri van Bengalen
 Status: Slaves
 Crime: Aufugie and sheep theft
 Victim Details: -
 Rec. Punishment (Fiscal): Displayed at gallows with noose round their necks,
 flogging, 'Een hakscheen afgesneeden', sent back to owner
 Actual Punishment (Court): As above, "regter hakscheen afgesneeden", costs
 Post/Symbolic Punishment: ?
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (86-88), 342 (208-216); [Th 4 Sept]

Name: Pieter de Jager (van Stokholm)
 Status: Mattroos
 Crime: Absconding, drosting, vagabonding for 8 months
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour in chains,
 fine of 3 months pay, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (89-100, *there are no pages in the 90s – ie the text runs
 from p89 into the 100s); [Th 4 Sept]

Name: [1] Alexander van Mallabaar
 [2] Januarij van Mallabaar
 [3] Meij van Malabaar
 [4] Pedro van Mallabaar
 [5] Arend van Boegis
 [6] Leendert van Boegis
 [7] Jacob van Boegis
 [8] Moses van Boegis
 [9] David van Rio de la Goa

	[10] Datho van Boegis [11] Pannaij van Boegis [12] Nathan ? (only in 20)
Status:	Leijfeijgen/Slaves
Crime:	Murder, Spolie met geweld, open unrest, armed 'complot'
Victim Details:	Various, though the burger Hercules du Preez and the Landbouwer Louis Swart seem to be among the central victims
Rec. Punishment (Fiscal):	[1,2,3,11] Bound to crosses, Flesh pulled with hot tongs, to be speared onto 'spit' (posts?) and left there until dead, bodies to be displayed at gallows [4,5,6,9] Bound to crosses, Flesh pulled with hot tongs, ledebraken from bottom up without coup de grace, left until dead (only 9 receives coup de grace), bodies to be displayed at gallows [7,8,10] Hanging, bodies to be displayed at gallows (rehanged) [12] Not in 342
Actual Punishment (Court):	[1,2,3,11] As above [+12 receives the same punishment] [4,5,6,9] As above, with coup de grace [7,8,10] Ledebroken with coup de grace, bodies to be displayed at gallows
Post/Symbolic Punishment:	Display
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	20 (101-105), 342 (217-264); [Mon 8 Sept]
Name:	Fortuijn van Rio de la Goa
Status:	Leijfeijgen
Crime:	Correspondence with a troupe of murderers, including giving information to them regarding coming to his master's farm (whom they subsequently murdered) [insubordination?]
Victim Details:	-
Rec. Punishment (Fiscal):	Hanging, body to be displayed at gallows
Actual Punishment (Court):	Fortuijn died during interrogation as a cause of the torture inflicted on him, his body was then ordered to be hung by the legs at the gallows for display
Post/Symbolic Punishment:	Display
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	20 (106-110, 115-6, 121), 342 (290-312); [Mon 20 Oct]

Name: Alijma aka Fortuijn van Boegis
 Status: Slave
 Crime: Murder and assault (also tried to commit suicide thereafter by stabbing himself in the stomach-TB)
 Victim Details: Stephanus Wildschut, retired steersman (murdered); Hank Braak, under-steersman, Free black wife of burger Pieter van den Heemert (wounded)
 Rec. Punishment (Fiscal): -
 Actual Punishment (Court): To be cut open with the murder weapon; intestines to be removed, burned and the ashes thereof to be thrown in the sea, beheaded, body to be quartered and displayed along with head on separate posts
 Post/Symbolic Punishment: all?
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (110-114); [Fri 10 Oct]

Name: Sabiel van Mallabaar
 Status: Slave (of the murdered burger Hercules du Preez)
 Crime: Correspondence and cooperation with the murderers (see earlier entry) [insubordination]
 Victim Details: -
 Rec. Punishment (Fiscal): Hanging, body to be displayed at gallows
 Actual Punishment (Court): As above, costs
 Post/Symbolic Punishment: Display
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (116, 122-4), 342 (313-320); [Th 23 Oct]

Name: Ontong van Balij
 Status: Leijfeijgen
 Crime: Aufugie and sheep theft
 Victim Details: -
 Rec. Punishment (Fiscal): Hanging, with sheep pelt and 'parang' above head, body to be displayed at gallows

Actual Punishment (Court): Flogged, branded, placed in chains for 3 years, sent back to owner, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (117, 124-6), 342 (321-333); [Th 23 Oct]

Name: Cupido van Bengalen
 Status: Slave
 Crime: Having knowledge of the murderers' intent and not warning his master or the knegt [insub]
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging, 'regter hakscheen afgesneeden', sent back to owner, costs
 Actual Punishment (Court): Flogged, sent back to owner, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (117-8, 127-9), 342 (334-8); [Th 23 Oct]

Name: Jan Holst
 Status: Burger
 Crime: Smuggling (illegal sale of Cape wine)
 Victim Details: -
 Rec. Punishment (Fiscal): Fine of 1000 Cape Guilders, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (118-9, 129-30), 342 (339-47); [Th 23 Oct]

[note on mattrroosen Willem Ter Beek and Jan Hendrikz, having been falsely accused by Johannes Christoffel Garnet. P 119-120)

Name: Michiel Wiels (van Weesel)
 Status: Mattroos
 Crime: Assault (with a knife)
 Victim Details: Jacobus Graan, burger
 Rec. Punishment (Fiscal): Flogging, branding, 3 years compny labour in chains, costs
 Actual Punishment (Court): Flogged by caffers, banished from the Cape, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: Wiels was provoked by the Graan brothers trying to steal his ring, though his actions were thought too harsh
 Source (Vol; Pg; Date): 20 (131-3), 342 (348-367); [Th 6 Nov]

Name: Jantje van Rio de la Goa
 Status: Slave
 Crime: Aufugie, 'saamen rotting' with a droster gang
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging, branding, regter hakscheen afgesneeden, sent back to owner, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: ?
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (133-4), 342 (368-375); [Th 6 Nov]

Name: [1] Michiel Jansz: (van den Ouden Dyk)
 Status: [2]Pieter Soensel Loeneberg (van Schoon)
 Crime: Knegten
 'Onbehoorlik slaan van seekere slaaf', unjustified assault on a slave, who died thereafter
 Victim Details: Papelo, slave
 Rec. Punishment (Fiscal):
 Actual Punishment (Court):

Post/Symbolic Punishment:

Reason/s for mitigation:

Source (Vol; Pg; Date): 20 (135-6)

Name: Jan Christoffel Garnet (van Manheim)

Status: Mattroos

Crime: Calumnies (342: Calumnies beschuldigt) : false accusation? Accused the mattröosen of sodomy. [company reg]

Victim Details: Willem Ter Beek and Jan Hendrikz, mattröosen

Rec. Punishment (Fiscal): Flogging, Branding, 3 years company labour in chains, costs

Actual Punishment (Court): Banishment, costs

Post/Symbolic Punishment: -

Reason/s for mitigation: -

Source (Vol; Pg; Date): 20 (119-20, 136-7, 140-1), 342 (265-89, 376-8); [Th 13 Nov]

Name: Hendrik Swart (van Minden)

Status: Mattroos

Crime: Absconding, drosting, vagabonding for 14 days

Victim Details: -

Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour in chains, fine of 3 months pay, costs

Actual Punishment (Court): Flogging by mattröosen, banishment

Post/Symbolic Punishment: -

Reason/s for mitigation: -

Source (Vol; Pg; Date): 20 (137-9); [Th 6 Nov]

Name: [1] Witteboij

[2] Wiltshut

[3] David

Status: Hottentotten
 Crime: Murder, Sheep theft
 Victim Details: Paul, Slave and sheep herder
 Rec. Punishment (Fiscal): [1+2] Bound to crosses, ledebraken from bottom up
 without coup de grace, bodies to be displayed at gallows
 [3] Hanging, body to be displayed at gallows
 Actual Punishment (Court): As above, costs
 Post/Symbolic Punishment: Bodies displayed
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (140[B]-143), 342 (379-396); [Th 27 Nov]

Name: [1] Alexander van Bengalen
 [2] Paris van Bengalen
 [3] September van de Caab
 Status: [1] Slave
 [2] Toebehoorende
 [3] Leijfeijgen
 Crime: Aufugie, Robbery
 Victim Details: -
 Rec. Punishment (Fiscal): Hanging, bodies to be displayed at gallows
 Actual Punishment (Court): [1+2] As above, costs
 [3] Flogging, 3 years in chains, sent back to owner *(Cape
 slaves regarded more highly then others??)
 Post/Symbolic Punishment: Bodies displayed
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (143-6); 342 (397-415); [Th 27 Nov]

Name: [1] Januarij van Nagapatnam
 [2] Jordaen van Bengalen
 [3] Limoen van Maccassar
 [4] Fortuijn van Mandar
 [5] Amsterdam van Timor
 Status: Leijfeijgenen
 Crime: Aufugie, Robbery
 Victim Details: -
 Rec. Punishment (Fiscal): [1-3] Displayed at gallows with noose round necks,
 flogging, branding, regter hakscheen afgesneeden, costs

Actual Punishment (Court): [4+5] Flogging, 3 years in chains, sent back to owners, costs
 [1-3] Flogged, 3 years in chains, sent back to owners, costs
 [4+5] Flogged, sent back to owners, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (146-9), 342 (416-442); [Th 27 Nov]

Name: Adolf Wessel (van Suwst)
 Status: Mattroos
 Crime: Absconding, drosting, vagabonding for 1 month
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour in chains, fine of 3 months pay, costs
 Actual Punishment (Court): Flogging by Mattroosen, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (150-2); [Th 4 Dec]

Name: Moses van Balij
 Status: Slave
 Crime: Aufugie, Assault on a slave (with a knife)
 Victim Details: Julij, slave
 Rec. Punishment (Fiscal): Flogging, branding, regter hakscheen afgesneeden, sent back to owner, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (153-5), 342 (442-8); [Th 18 Dec]

Name:	[1] April van Maccassar [2] David van Bengalen
Status:	Leijfeijgenen
Crime:	Theft ('Garden Theft')
Victim Details:	Capt. Rhenius (his garden)
Rec. Punishment (Fiscal):	Flogging, with a bullet above their heads (the attempted stolen goods), 3 years in chains, sent back to owners, costs
Actual Punishment (Court):	Flogged, sent back to owners, costs
Post/Symbolic Punishment:	-
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	20 (155-7), 342 (449-59); [Th 18 Dec]

[END]

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CJ 21, CJ 343, CJ 344[I-VI] (1739):

Name: April van de Caab
 Status: Leijfeijgen
 Crime: Aufugie, 'gefingueerde Leugetaal' [insub?]
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 3 years company labour in chains, costs
 Actual Punishment (Court): Flogged by Caffers, 3 years in chains, sent back to owner
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 21 (1-3), 343 (1-14); [Th 22 Jan]

Name: [1] Ernst Siegfried Christoffel Oldenkop
 [2] Adam Axel
 Status: [1] Corporal at Castle
 [2] Soldaat
 Crime: [1] Drunk on duty and disorderly conduct while on guard over convicts
 [2] Disobedience, disorderly conduct, Aggression towards superior, leaving his post
 Victim Details: -
 Rec. Punishment (Fiscal): [1] Run the gauntlet 3 times, demotion to soldaat, costs
 [2] Hanging, body displayed at gallows** (harsh)
 Actual Punishment (Court): [1] 'van ampt qualiteit en gagie en stelt hem tot soldaat aan met G9 p/m', 14 days in donker gat on bread and water diet
 [2] Flogged by Caffers, 3 years in chains, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: (Axel blames Oldenkop for his drunkenness, lenience is requested)
 Source (Vol; Pg; Date): 21 (3-9), 343 (15-57); [Th 5 Feb]

Name: Jurgen Scholtz (van Dantzig)
 Status: Houtkapper

Crime: Murder and Sheep theft
 Victim Details:
 Rec. Punishment (Fiscal):
 Actual Punishment (Court): Initial torture
 Post/Symbolic Punishment:
 Reason/s for mitigation:
 Source (Vol; Pg; Date): 21 (9-11)

Name: Jordaan van Bengalen (Same as previous in 1738? Possible, same owner)
 Status: Slave
 Crime: Housebreaking and Theft
 Victim Details: Widow Melt van der Spuij, burgeress; Johannes Kruijwagen, Burgerraad
 Rec. Punishment (Fiscal): Hanging, body to be displayed at gallows
 Actual Punishment (Court): As above *(harsh, possibly due to the status of the above 'victim/s')
 Post/Symbolic Punishment: Body displayed
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 20 (12-14), 343 (58-66); [Th 5 Mar]

Name: Fortuijn van Mallabaar
 Status: Slave (of the 'repatriated' understeersman, Andries Roelofsz, see 1738)
 Crime: Theft (money)
 Victim Details: Pieter Lindebladt, Burger
 Rec. Punishment (Fiscal): Whatever the court deems fit
 Actual Punishment (Court): Flogged by Caffers with 'daggetjis', costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 21 (14-5), 343 (67-74); [Th 5 Mar]

Name: [1] Michiel Jansz: (van den Ouden Dijk)
 Status: [2] Pieter Soensel Loeneberg
 Mattroosen

Crime: See entry in 1738
 Victim Details:
 Rec. Punishment (Fiscal): Flogging by Caffers, banishment, costs
 Actual Punishment (Court): Costs
 Post/Symbolic Punishment:
 Reason/s for mitigation:
 Source (Vol; Pg; Date): 21 (16-7), 343 (75-103); [Th 5 March]

Name: [1] Jurgen Scholts (van Dantzig)
 [2] Willem Broek (van Boekholt)
 [3] Christoffel Coelmeijer (van Paterborn)
 [4] Christoffel Hoornest (van Roosdorp by Darmstad)
 Status: Houtkappers
 Crime: Murder, Sheep Theft
 Victim Details: Coridon, Slave
 Rec. Punishment (Fiscal): Initial torture. Hanging, bodies to be displayed at gallows.
 Actual Punishment (Court): [1+2] As above, costs
 [3+4] Flogged, branded, 10 years company labour in chains, costs
 Post/Symbolic Punishment: Bodies displayed
 Reason/s for mitigation: The first two were more directly involved (ie were the ones entering the kraal and who stabbed Coridon, the others were accomplices to the act)
 Source (Vol; Pg; Date): 21 (18-21), 343 (104-56); [Th 5 Mar]

Name: Jan Welsing (van Amsterdam)
 Status: Opperzeijlmaker
 Crime: Homicide
 Victim Details: Cornelis Jansz, Mattroos
 Rec. Punishment (Fiscal): Geharquebeseert (Firing squad), costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 21 (22-4), 343 (157-168); [Th 26 Mar]

Name: Coridon van Mallabaar
 Status: Slave
 Crime: Sodomy (with a mare)
 Victim Details: -
 Rec. Punishment (Fiscal): Initial Torture. To be taken out to sea, thrown overboard and drowned. Costs. Horse to be shot.
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 21 (25, 28, 31-2), 343 (192-266); [Th 23 Apr]

Name: Huijbregt Bakker
 Status: Soldaat
 Crime: Smuggling (illegal sale of alcohol)
 Victim Details: -
 Rec. Punishment (Fiscal): Fine of 1000 Cape Guilders, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 21 (26), 343 (169-176); [Th 16 Apr]

Name: Hendrik Pothoven (van Enkhuijsen)
 Status: Bandiet (convict) on Robben Island
 Crime: Attempted Sodomy
 Victim Details: Various other convicts
 Rec. Punishment (Fiscal):(JN) Flogging, Banned for life to Robben Island, costs
 Actual Punishment (Court): Flogging, Banishment for life to Battery at the Cape (Robben Island?), costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 21 (26-7, 33-4), 343 (207-224); [Th 23 Apr]

Name: Michiel Herda

Status:	Soldaat
Crime:	Robbery
Victim Details:	-
Rec. Punishment (Fiscal):	Initial Torture. Hanging, body to be displayed at gallows. Costs
Actual Punishment (Court):	Initial Torture. As above
Post/Symbolic Punishment:	Body displayed
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	21 (27-29, 36-8), 344-I (1-80, 91-117); [Th 30 Apr]

[Van Den Hengel back as fiscal]

Name:	Jan Michiel Forster
Status:	Burger
Crime:	Premeditated Homicide/Murder
Victim Details:	Christiaan Fredrik Peetsold
Rec. Punishment (Fiscal):	Hanging. Body to be displayed at gallows. Costs
Actual Punishment (Court):	As above
Post/Symbolic Punishment:	Body displayed
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	21 (30-1), 343 (177-91); [Th 23 Apr]

Name:	Jan Christiaan Smit
Status:	Soldaat
Crime:	Theft
Victim Details:	-
Rec. Punishment (Fiscal):	Initial Torture. Hanging, body to be displayed at gallows. Costs
Actual Punishment (Court):	Initial Torture. As above
Post/Symbolic Punishment:	Body displayed
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	21 (32-3, 35-8), 344-I (82-117); [Th 30 Apr]

Name: Lijsebeth van de Caab
 Status: Slave
 Crime: Accomplice to robbery and theft
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging, Branding, 5 years company labour in chains, costs
 Actual Punishment (Court): Flogged by Caffers, sent back to owner.
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 21 (36-8), 344-I (91-117); [Th 30 Apr]

[Note: Herda confessed to having murdered one Jurgen Zinger with a stick , after which he sewed him up in a sail and buried him in the dunes– the court decided that as he already had the death sentence they needn't do anything further regarding this matter – Sat 2 May, pp39-40]

Name: Jan Herman Arkman (uijt Munsterland)
 Status: Soldaat
 Crime: Theft (in hospital)
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers in hospital, 3 years company labour in chains, costs
 Actual Punishment (Court): Flogged by Caffers, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 21 (41-2), 344-I (118-25); [Th 21 May]

Name: Slammat van Mandaar
 Status: Leijfeijgen
 Crime: Murder
 Victim Details: Jurgen Jansz, Knecht

Rec. Punishment (Fiscal):[PL]	Bound to cross, flesh pulled with hot tongs, to be speared alive to a post, left there to die, body to be displayed at gallows
Actual Punishment (Court):	As above
Post/Symbolic Punishment:	Body displayed
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	21 (43-4), 344-II (1-35); [Th 28 May]
Name:	Cupido van Mallabaar
Status:	Leijfeijgen
Crime:	Criminal Case: Threatening to kill himself or his master's wife, assault and attempting to kill his master (Behaving like a criminal??) [Insub, asslt]
Victim Details:	-
Rec. Punishment (Fiscal):PL	Bound to a cross, Ledebraken from bottom up without coup de grace, body to be displayed at gallows, costs
Actual Punishment (Court):	As above
Post/Symbolic Punishment:	Body displayed
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	21 (44-6), 344-II (36-74); [Th 28 May]
Name:	Fortuijn van Rio de la Goa
Status:	Leijfeijgen
Crime:	Threatening his master's son (syn Meesters zoon) and other slaves with a knife, using foul language (ie. Insubordination)
Victim Details:	Gabriel Russouw
Rec. Punishment (Fiscal):PL	Hanging, body to be displayed at gallows, costs
Actual Punishment (Court):	Displayed with noose round neck, flogging, branding, 10 years company labour in chains, costs
Post/Symbolic Punishment:	noose round neck
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	21 (46-8), 344-II (75-103); [Th 28 May]

Name: Hoemar van Boegis
 Status: Leijfeijgen
 Crime: Criminal Case: Trapped his master's wife, her younger sister and a maid in a room. Wife and maid jumped out the window, but Hoemar grabbed and assaulted the younger sister, before being stopped by his master and other slaves
 Victim Details: As above
 Rec. Punishment (Fiscal): PL Bound to a cross, Ledebraken from bottom up without coup de grace, body to be displayed at gallows, costs
 Actual Punishment (Court): Ledebraken with coup de grace, body displayed at gallows, costs
 Post/Symbolic Punishment: Body displayed
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 21 (48-50), 344-II (104-133); [Th 28 May]

Name: Augustus van Bengalen
 Status: Leijfeijgen
 Crime: Insubordination (same circumstances as above case of insubordination)
 Victim Details: -
 Rec. Punishment (Fiscal): Initial Torture. Hanging. Body to be displayed at gallows.
 Actual Punishment (Court): Initial Torture. As above, costs
 Post/Symbolic Punishment: Body Displayed
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 21 (51, 54-5, 57-8), 344-II (134-178); [Th 16 July]

[Note on Jan Loose and Maria Lubbe – Lourensz requests they be brought before the court. 21 (pp52-3)]

Name: December van Boegis
 Status: Slave
 Crime: Suicide (hanged himself in a tree in his master's garden)
 Victim Details: -
 Rec. Punishment (Fiscal): -

Actual Punishment (Court):	To be hung upside down (at gallows?)
Post/Symbolic Punishment:	As above
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	21 (56), [Tues 7 July]

Name:	Paul Keijser
Status:	Landbouwer
Crime:	Assault, violence
Victim Details:	Hermanus Vermaak, Burger
Rec. Punishment (Fiscal):PL	1 month in 'donker gat' on diet of bread and water, 200 Rxd fine, Pain costs, costs
Actual Punishment (Court):	50 Rxd fine, 20 Rxd pain costs, costs
Post/Symbolic Punishment:	-
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	21 (59-60, 62), 344-III (1-50); [Th 6 Aug]

[Note on July van Bengalen and Sietje van Balie regarding the murder of the slave Cupido van Mallabaar, having been found innocent and to be released from custody pp60-1; 344-III (51-74)]

[Jacob Jansz Kerkmijer and Harmen Christiaansz to be released from custody, whilst Jan Christiaan Schoonheer to be sent to Robben Island for 10 years. Pp61-4; 344-III (75-148)]

Name:	Hermanus Tampke (van Hanover)
Status:	Soldaat
Crime:	Absconding, Drostring, vagabonding for 12 days. Also left his weapon at his post with the convicts he was overseeing.
Victim Details:	-
Rec. Punishment (Fiscal):	Run the gauntlet 3 times, costs
Actual Punishment (Court):	Run the gauntlet twice, costs
Post/Symbolic Punishment:	-
Reason/s for mitigation:	-
Source (Vol; Pg; Date):	21 (65-6); [Th 1 Oct]

Name: Wynand Louw
 Status: Burger
 Crime: Disobedience and insubordination of governor's Commando
 Victim Details: -
 Rec. Punishment (Fiscal): PL Removal of burger status, banishment from the colony, costs
 Actual Punishment (Court): 100 Rxd fine, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 21 (67-8), 344-III (149-173); [Th 8 Oct]

Name: Estienne Barbier
 Status: Sergeant
 Crime: Aufugie, violation of arrest, spurring landbouwers against the government, illegal removal of placcaten, causing armed uprisings, libel and injurious accusations; Arson, Murder, Plundering, Uprisings, Theft [incl Other, comp reg]
 Victim Details:
 Rec. Punishment (Fiscal): To be bound to a cross, his right hand chopped off, Ledebraken from bottom up, beheaded, quartered. Thereafter hand, head and parts of his body to be displayed. **Note: Van den Hengel was one of Barbier's main targets in his accusations of corruption, as he was governor during Barbier's uprising, and was now the one passing his recommended sentence...
 Actual Punishment (Court): Bound to cross, right hand chopped off, beheaded, body quartered. Hand and head to be placed on a stake at Roodesands Cloof, body parts placed at the busiest roads (hung)
 Post/Symbolic Punishment: All...
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 21 (69-72, 75-8), 344-IV (1-299, the whole book); [Th 12 Nov]

Name: Honore Por (van Sette)
 Status: Mattroos

Crime: Insolence against hospital officials (TB- Assault)
 Victim Details: Hendrik Staal, Hospital 'Portier' (Doorman – TB)
 Rec. Punishment (Fiscal): Flogging by Caffers in hospital, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 21 (72-3), 344-III (174-186); [Th 5 Nov]

Name: Mijndert Eggens
 Status: Mattroos
 Crime: Theft
 Victim Details: Huijbregt de Wilde, Mattroos
 Rec. Punishment (Fiscal): Flogging by Caffers in hospital, 6 months company labour, costs
 Actual Punishment (Court): Flogged by Caffers, 6 months company labour in chains, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 21 (73-4), 344-III (187-98); [Th 5 Nov]

Name: [1] Jan Loose
 Status: [2] Maria Lubbe
 Crime: [1] Burger
 Victim Details: [2] Huijsvrouw
 Rec. Punishment (Fiscal): Manslaughter
 Actual Punishment (Court): Christoffel Eisleben, Burger
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): -
 Source (Vol; Pg; Date): 21 (79)

Name: [1] Andries Paulsman (van Amsterdam)
 [2] Lammert/Lambert van Evenhoorn (van Haarlem)

Status: Jong Mattroosen
 Crime: Sodomy ('met een hoen' – chicken?)
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging (indoors), plus
 [1] 25 years on Robben Island
 [2] 5 years on Robben Island
 Actual Punishment (Court): Flogged indoors, costs,
 [1] 10 years on Robben Island
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 21 (80-1), 344-VI (1-30); [Th 26 Nov]

Name: Alexander van Maccassar
 Status: Leijfeijgen
 Crime: Insubordination and threatening his master with a knife
 Victim Details: [Abraham Dekker, Ondercoopman]
 Rec. Punishment (Fiscal): To be bound to a cross, 'geleedebraakt' from bottom up
 without coup de grace, left there until dead. Body to be
 displayed at gallows, costs
 Actual Punishment (Court): Hanged, body displayed at gallows, costs
 Post/Symbolic Punishment: Body displayed
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 21 (81,84-5), 344-VI (31-83); [Th 3 Dec]

Name: Johannes Mutsker (van Rijtlingen)
 Status: Soldaat
 Crime: Assault (brutal assault)
 Victim Details: Hospital 'siekevaders' (superintendents – TB)
 Rec. Punishment (Fiscal): Run the gauntlet 3 times, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 21 (81-2, 86), 344-VI (84-113); [Th 3 Dec]

Name: Jan Christoffel Voogt (van Dantzig)
 Status: Soldaat
 Crime: Insolence and violence (Assault)
 Victim Details: Nicolaas Booden, Quartermaster
 Rec. Punishment (Fiscal): Flogging by Caffers, 5 years company labour in chains, costs
 Actual Punishment (Court): 14 days in 'Donker Gat' on diet of bread and water, fined 3 months pay, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 21 (82, 87-8), 344-VI (114-164); [Th 3 Dec]

Name: Jacob Jansz Kerkmeijer (van Maarse)
 Status: Mattroos
 Crime: Absconding, drosting, vagabonding for 9 days
 Victim Details: -
 Rec. Punishment (Fiscal): Flogging by Caffers, 18 months company labour in chains, fine of 3 months pay, costs
 Actual Punishment (Court): As above
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 21 (82-3); [Th 26 Nov]

Name: Pieter Jansz: Hartog
 Status: Landbouwer
 Crime: Injurious libel (against the authorities that were persecuting Barbier) [other]
 Victim Details: -
 Rec. Punishment (Fiscal): PL Flogging by Caffers, removal of burger status, banishment from the colony, costs
 Actual Punishment (Court): Flogged by caffers, banished from the colony, costs
 Post/Symbolic Punishment: -
 Reason/s for mitigation: -
 Source (Vol; Pg; Date): 21 (89-90), 344-VI (165-194); [Th 17 Dec]

Name: Jan Dirk Keijser (van Lingen)
Status: Soldaat
Crime: Absconding, drosting, vagabonding (and not following up on the call to the Commando) for 1 month [insub]
Victim Details: -
Rec. Punishment (Fiscal): Flogging by Caffers, 3 years company labour in chains, costs
Actual Punishment (Court): As above
Post/Symbolic Punishment: -
Reason/s for mitigation: -
Source (Vol; Pg; Date): 21 (90-1), 344-VI (195-8); [Th 17 Dec]

[END]